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Counsel for Claimant/Creditor, ROBERT WIELAND,
as Successor Trustee of THE MARSHELL O. CULTON
REVOCABLE LIVING TRUST DATED
APRIL 28, 2005, and as Successor in Interest
of Marshall O. Culton

**UNITED STATE BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)	
)	
In re:)	
)	Case No.: 12-12020 (MG)
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,)	
)	Chapter 11
Debtors.)	
_____)	Jointly Administered

**OPPOSITION TO THE RESCAP
BORROWER CLAIMS TRUST'S SEVENTY-FIFTH
OMNIBUS OBJECTION TO CLAIMS
(NO LIABILITY BORROWER CLAIMS)**

CLAIM PROPOSED BY DEBTOR TO BE DISALLOWED AND EXPUNGED

CLAIM NO. 3734

DEBTOR: Executive Trustee Services, LLC dba ETS Services LLC

**CREDITOR: Jacquelyn O. Wieland TTE of Marshall O. Culton Revocable Living Trust
dated April 28, 2005**

**Person with authority to discuss and or settle case: Mark Nialis, Esq. , whose address and
phone number are listed above. All correspondence regarding this claim should be
addressed to him at the address and phone number above.**

COMES NOW Claimant, ROBERT WIELAND, as Successor Trustee of THE
MARSHELL O. CULTON REVOCABLE LIVING TRUST DATED APRIL 28, 2005, and as

Successor In Interest of Marshall O. Culton ("Claimant or Creditor"), and responds to the ResCap Borrower Claims Trust's ("Debtor") Seventy-Fifth Omnibus Objection to Claims ("Objection") filed in the above case as follows:

I. GROUNDS FOR OPPOSITION TO OBJECTION

1. The Objection is procedurally defective and unintelligible because Debtor has alleged no facts nor made any allegations showing any basis to deny this Claim. The Objection states on the very first page of the Notice of Hearing that the stated reason for disallowance was--"*No liability--See Exhibit A to the proposed form of order*".

The Objection specifically instructs Claimants as follows: "CLAIMANTS RECEIVING THIS OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS ON EXHIBIT A ATTACHED TO THE PROPOSED ORDER." The problem is that Exhibit A to the proposed order **does not even mention the Claimant**. Instead, Exhibit A shows a detailed analysis of non-liability for a series of other, unrelated creditors, but **nothing as against the Claimant**. While there are other places in the Debtor's moving papers that outline various boilerplate objections to claims, which may or may not apply to any specific claim, there is nothing in the moving papers which tie any of these boilerplate objections to the Claimant. This failure to allege any facts, or even arguments against the Claimant, must result in denial of the Objection on these procedural grounds. There is no allegation that Claimant failed to answer any request for information, and no objection was made on that ground.

2. Because there is no specific reference to Claimant's claim on Exhibit A, the Objection specifically states by its own terms that it does not affect Claimant's claim (nor any other Claimant not listed). The proposed Order further orders -- "*that this Order has no res judicata, estoppel, or other effect on the validity, allowance, or disallowance of any claim not*

listed on Exhibit A annexed to this Order.

3. There is liability for damages by the Debtor to the Claimant, justifying the Proof of Claim in the amount of \$1,566,415.00. This amount was alleged in the Proof of Claim, and there is a detailed explanation of how it was computed. There is a lawsuit against the Debtor brought by the Claimant which details the Debtor's substantive liability for damages. This lawsuit was attached to the Proof of Claim, as were other exhibits. Significantly, Debtor's Objections does not mention the lawsuit and the claims set forth therein. On May 24, 2012, GMAC served its Notice of Bankruptcy and Effect of Automatic Stay as to Defendant GMAC Mortgage, LLC, in the LASC Civil Suit and on May 30, 2012, ETS served its Notice of Bankruptcy and Effect of Automatic Stay as to Defendant Executive Trustee Services, LLC, in the LASC Civil Suit. The filing of the Chapter 11 petitions by GMAC and ETS has stopped the civil litigation pursuant to 11 USC § 362 *et seq.*

II. STATEMENT OF CASE

The claim of Jacqueline O. Wieland, as Trustee of the Marshall O. Culton ("Culton") Revocable Living Trust Dated April 28, 2005, and as Successor In Interest of Marshall O. Culton ("Claimant"), arises from the wrongful foreclosure by GMAC Mortgage, LLC ("GMAC") and Executive Trustee Services, LLC dba ETS Services LLC ("ETS") of real property located at 830 West Orange Grove Avenue, Arcadia, CA 91006 ("Subject Property"). Culton (the mother of Claimant) purchased the Subject Property on October 16, 2002. On July 12, 2005, the Subject Property was transferred, by way of a Trust Transfer Deed, to The Marshall O. Culton Revocable Living Trust Dated April 28, 2005, ("Culton Trust"), which was recorded with the Los Angeles County Recorder's Office as Instrument No. 051641340. On April 25, 2007, in order to refinance the Subject Property, Culton executed a Quitclaim Deed transferring the Subject Property from

the Culton Trust to herself, an unmarried woman, and recorded this deed in the County of Los Angeles as Instrument No. 20071113043 on May 8, 2007. Culton encumbered the Subject Property with a Note secured by a First Deed of Trust in the amount of \$970,000.00 (“DOT Note”) dated April 30, 2007, which was recorded in the Los Angeles County Recorder’s Office on May 8, 2007 as Instrument No. 20071113044 which is in a first priority position for the Subject Property.

On March 31, 2009, a Notice of Default and Election to Sell Under Deed of Trust (“NOD”) was recorded by ETS against the Subject Property indicating that as of March 27, 2009, Culton was in default in the amount of \$25,886.23. The NOD was recorded with the Los Angeles County Recorder’s Office as Instrument No. 20090459490. Thereafter, on July 2, 2009, a Notice of Trustee’s Sale (“NTS”) was recorded against the Subject Property. The NTS was recorded with the Los Angeles County Recorder’s Office as Instrument No. 20090999746. Subsequent to the recordation of the NOD and NTS, Culton and GMAC exchanged communications concerning a foreclosure repayment plan and agreement. On September 17, 2009, Culton, for the benefit of the real property and to cure the default in the NOD and NTS, entered into a “Foreclosure Repayment Agreement,” (“FRA”) with GMAC, which FRA served as a modification of the DOT Note. Payments were made by Culton, and GMAC accepted Culton’s payments, under the DOT Note pursuant to the FRA up to November 2009.

On November 5, 2009, Culton died.¹ Claimant is the Successor Trustee of the Culton Trust, as well as the sole beneficiary of the Subject Property. On November 15, 2009, after

¹ The Los Angeles County Probate Court in Case No. GP016044 issued an order, *nunc pro tunc*, that the Subject Property is deemed property of the Culton Trust at the time of Culton's death on November 5, 2009. At the date of the death the record title to the Subject Property was still in the name of Culton as an unmarried woman. Culton inadvertently failed to transfer the Subject Property back into the Culton Trust after completing the April 2007 refinance on the Subject Property. The Subject Property the court ruled was actually owned by the Culton Trust because the language in the Culton Trust Instrument is sufficient to create a trust in the property.

Culton passed away, Claimant remitted a payment pursuant to the Foreclosure Repayment Agreement, which GMAC accepted, under the DOT Note. GMAC accepted the payment remitted by Claimant in both her capacities as Successor Trustee and as Successor in Interest.

Thereafter, on December 10, 2009, at 2:07 p.m., Claimant and her husband, Robert Wieland, notified GMAC of Culton's death by calling GMAC's Mortgage Loan Servicing Customer Care Department at (866) 725-0782. GMAC, by and through its representative whose identity is known to GMAC, orally directed Claimant and her husband to **NOT** make any further payments under the Foreclosure Repayment Agreement. GMAC's representative (whose identity is known to GMAC) made an express promise to Claimant that GMAC would suspend all foreclosure activity concerning the Subject Property and that GMAC would continue to work with Claimant and her husband while GMAC determined how to proceed after Culton's death. In reliance upon the statements of GMAC's Loan Servicing Customer Care representative (whose identity is known to GMAC), Claimant did not make the monthly payment for December 2009.

As requested by GMAC, On December 22, 2009, Claimant's husband, Robert Wieland, provided GMAC with a copy of Culton's death certificate.

GMAC failed to note in their records that Culton had passed away and continued to direct communications to her, despite receiving a copy of Culton's death certificate and on January 8, 2010, GMAC sent a letter to Culton stating that the repayment plan previously established at her request was canceled because "the payment was not received by the payment date as specified in the signed repayment agreement."²

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2 GMAC further indirectly admitted to the validity and enforceability of the FRA between GMAC and Culton.

On January 28, 2010, ETS, acting in concert with and at the direction of GMAC, conducted a wrongful foreclosure against the Subject Property by way of the July 2, 2009 NTS, (1) despite the representations of GMAC that foreclosure activity concerning the Subject Property would be suspended, (2) despite the representations of GMAC that they would continue to work with Claimant and her husband while GMAC determined how to proceed after Culton's death and (3) despite receiving a copy of Culton's death certificate, without further notice to Claimant.

The Subject Property was sold pursuant to the Notice of Trustee's Sale, and on February 5, 2010, ETS recorded a Trustee's Deed Upon Sale from ETS to Grandana LLC/Lava rock Investments, LLC (Los Angeles County Recorder's Office Instrument No. 20100170064).

The Subject Property was transferred pursuant to Grant Deed on February 26, 2010, from Grandana LLC/Lava Rock Investments, LLC, to Grandana, LLC, Lava Rock Investments, Mansour Meisami and Manzar Meisami, Husband and Wife and E&A LLC, which was recorded with the Los Angeles County Recorder's Office as Instrument No. 20100263451. The Subject Property was quickly re-sold without improvements for approximately \$1,500,000.00. The fair market value of the property was \$2,000,000. A Grant Deed from Grandana LLC, Lava Rock Investments, Mansour Meisami and Manzar Meisami, Husband and Wife and E&A LLC to David Robert Kruse and Linda Faye Kruse Co-Trustees of the David and Linda Kruse Community Property Trust, under trust dated 6/26/03, was recorded with the Los Angeles County Recorder's Office as Instrument No. 20100263451.

On December 7, 2011, Claimant filed an action naming GMAC and ETS as defendants on causes of action for breach of contract, fraud, intentional misrepresentation, negligent misrepresentation and wrongful foreclosure against the Subject Property in the Superior Court of

the State of California, Los Angeles County *Jacquelyn Wieland, Trustee of the Marshall O. Culton Revocable Living Trust, dated April 28, 2005 v. GMAC Mortgage, LLC, et al.*, Case No. GC048550) ("LASC Civil Action").

Claimant, through her counsel, on November 8, 2012, filed Proof of Claim No. 3734 in Case No. 12-2028 (MG) *In re Executive Trust Services, LLC* ("Claim 3734") and Proof of Claim No. 3735 in Case No. 12-2032 (MG) *In re GMAC Mortgage, LLC* ("Claim 3735").

Claims 3734 and 3735 are hereinafter collectively referred to as "the Claims." The Claims assert damages in the total amount of \$1,566,415.00 for based on the loss of real property, as of January 28, 2010, wrongfully caused by GMAC and ETS as plead in the LASC Civil Action. There are two claims and therefore, two oppositions filed because the Court ordered that claims be filed separately against the Debtors, even though this is a jointly administered case.

On June 21, 2013 Morrison | Foerster on behalf of The ResCap Borrower Claims Trust ("Trust") sent letters (one each) requesting further information regarding the Claims. Pursuant to the June 21, 2013 letters the deadline to respond was July 22, 2013. Thereafter, on July 15, 2013, prior to the July 22, 2013 deadline, Claimant provided a timely and comprehensive joint response to the Trust's request for further information. A true and correct copy of Claimant's July 15, 2013 letter response is attached hereto as Exhibit 1.

III. BASIS FOR LIABILITY OF DEBTOR

1. The actions of Debtor created a default and foreclosure, where one would not have existed, absent their wrongful conduct.

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2. GMAC had a duty not to foreclose on the Subject Property pursuant to its express agreement with Claimant. GMAC ratified the FRA by accepting Culton's payments and further ratified the FRA when it accepted Claimant's November 15, 2013 payment.

3. GMAC breached its express agreement to not foreclose and also breached its express promise to Claimant to suspend all foreclosure activity concerning the Subject Property and that GMAC would continue to work with Claimant and her husband while GMAC determined how to proceed after CULTON's death.

4. The representations made by GMAC were false. GMAC did not suspend all foreclosure activities against the Subject Property.

5. GMAC knew, or should have known, to stay the foreclosure proceedings against the Subject Property pursuant to its representations, assurances and promises to Claimant.

6. But for the promises made by GMAC, Claimant would have made the monthly payments pursuant to the FRA (as evidenced by Claimant's November 15, 2009 payment) or offered full tender of the arrearage at that time.

IV. EVIDENCE OF VALIDITY OF THE CLAIM

There has already been filed a detailed claim, with documents, showing the validity of the claim. There will be filed a Declaration, under penalty of perjury, which details that the facts set forth in this Pleading are true and correct, and which will supply documentary evidence showing the validity of this claim. However, the Debtor's Objection to claims, does not even refer to the Claims, as aforesaid, and therefore, the Debtor's Objection must be denied on that ground.

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V. CONCLUSION

WHEREFORE, Jacqueline O. Wieland, as Trustee of the Marshall O. Culton Revocable Living Trust Dated April 28, 2005, and as Successor In Interest of Marshall O. Culton, respectfully requests that Debtor's Objection be DENIED, and the claim described herein be allowed as filed, and such other relief is granted.

Dated: October 16, 2014

Respectfully submitted,

/s/ Mark A. Nialis

By: _____

Mark A. Nialis
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Email: Mnialis@NialisLaw.com

*Counsel for Claimant/Creditor, ROBERT
WIELAND, as Successor Trustee of THE
MARSHELL O. CULTON REVOCABLE LIVING
TRUST DATED APRIL 28, 2005, and as Successor
in Interest of Marshall O. Culton*

Exhibit 1

NIALIS LAW GROUP

A PROFESSIONAL LAW CORPORATION

MARK A. NIALIS, ESQ.
RONDINE E. MACADAEG, ESQ.
TELEPHONE: 714.634.8001
FAX: 714.634.3869

500 NORTH STATE COLLEGE BLVD.
SUITE 1200
ORANGE, CA 92868
WWW.NIALISLAW.COM

SENT VIA EMAIL AND U.S. MAIL

July 15, 2013

Residential Capital, LLC

P.O. Box 385220
Bloomington, MN 55438
Email: Claims.Management@gmacrescap.com

Re: *In re Residential Capital, LLC, et al.* (Chapter 11 Bankruptcy)
Case No.: USBK 12-12020 (MG) (Southern District of New York)
("ResCap Bankruptcy Case")
Our Client: Jacqueline O. Wieland, as Trustee of the Marshall O. Culton Revocable
Living Trust Dated April 28, 2005
Our File No.: 5005
Claim Nos: **3734 (Executive Trustee Services) and 3735 (GMAC Mortgage, LLC)**

This letter is in response to the two (2) Notices dated June 21, 2013 from Morrison Foerster for Residential Capital requesting additional information for **Claim Nos. 3734 and 3735**.

Proofs of Claim were filed on behalf of Jacqueline O. Wieland, as Trustee of the Marshall O. Culton Revocable Living Trust Dated April 28, 2005 ("Claimant") against Debtors GMAC Mortgage, LLC ("GMAC") and Executive Trustee Services ("ETS") (GMAC and ETS hereinafter collectively as "Debtors") pursuant to the ResCap Bankruptcy Case.

Claimant served upon Debtors a Second Amended Complaint ("SAC") in the Superior Court of the State of California, Los Angeles Superior Court Case No. GC048550, to which non-parties to the ResCap Bankruptcy Case filed a Demurrer to the SAC. Pursuant to the Court's ruling on the Demurrers, Claimant filed a Third Amended Complaint ("TAC").

However, the Demurrers were sustained on issues that did not reduce the substantive claims against the Debtors; the Demurrers were sustained on the grounds that the capacities of the Demurring Parties were fundamentally different from that of the Debtors. As the SAC and TAC

NIALIS LAW GROUP, APLC

In re Residential Capital, LLC, et al. (Chapter 11 Bankruptcy)

July 15, 2013

Page 2

show, the allegations and the basis for the calculation of damages as against the Debtors remain the same.

A true and correct copy of the SAC was attached with the original claims. Enclosed please find true and correct copies of the following:

1. ResCap Form for Claim 3734;
2. ResCap Form for Claim 3735; and
3. Third Amended Complaint.

Please contact the undersigned should you have any questions in this matter.

NIALIS LAW GROUP, APLC

(Sent without signature to avoid delay.)

MARK A. NIALIS

email: Mnialis@NialisLaw.com

MAN/pm

Enclosures (as noted):

cc: Clients

Alan Lurya, Esq. (Bankruptcy Counsel)

L:\5005 (3971)\Corr\ResCap.01 (BK Addl Info).wpd

5005

Residential Capital, LLC
c/o KCC
2335 Alaska Ave
El Segundo, CA 90245

000136

PRF # 59050***
Case No.: 12-12020
Svc: 3

PackID: 136
NameID: 11080091

Jacquelyn O. Wieland, TTE of Marshall O. Culton Rev. Living Trust
April 28, 2005
Wildish & Njalis
500 North State College Blvd., Suite 1200
Orange, CA 92868

RECEIVED
JUN 26 2013

RESCAP

MORRISON | FOERSTER

June 21, 2013

Claim Number: 3734

Dear Claimant: Jacquelyn O. Wieland, TTE of Marshall O. Culton Rev. Living Trust April 28, 2005

You are receiving this letter because you or someone on your behalf filed a Proof of Claim form in the jointly-administered chapter 11 bankruptcy cases of Residential Capital, LLC ("ResCap"), GMAC Mortgage, LLC and other affiliated debtors and debtors in possession (collectively, the "Debtors") pending before the United States Bankruptcy Court for the Southern District of New York, Case No. 12-12020 (MG) (the "ResCap bankruptcy case"), and we need additional information from you regarding the claim(s) ("claim") you are asserting against the Debtors.

The Information we Need From You Regarding Your Proof of Claim:

We reviewed a copy of the Proof of Claim form and documents that you filed in the ResCap bankruptcy case. A copy of your Proof of Claim form is enclosed for your reference. According to our records, you have filed a lawsuit against one or more of the Debtors. Please reply using the attached form and let us know whether the basis for and amount of the claim contained in the Proof of Claim form are the same or different in any way from the claim you have asserted in your lawsuit against the Debtors. Please ensure that you provide specific detail and support as to the basis for and amount of claim referenced in your Proof of Claim. If your lawsuit has been dismissed or withdrawn, please provide a specific explanation as to why you believe that you are still owed money or entitled to other relief from one or more of the Debtors.

You Must Respond to this Letter by no Later Than July 22, 2013:

In accordance with the Order of the Bankruptcy Court (Docket No. 3294, filed March 21, 2013), you **must** respond to this letter by no later than July 22, 2013 with the requested information and an explanation stating the legal and factual reasons why you believe you are owed money or are entitled to other relief from one or more of the Debtors as of May 14, 2012 (the date the Debtors filed their bankruptcy cases). You **must** also provide copies of any and all documentation that you believe supports the basis for and amount of your claim. A form is included with this letter to assist you in responding to our request for additional information.

Consequences of Failing to Respond:

If you do not provide the requested information regarding the basis for and amount of your claim and the supporting documentation by July 22, 2013, the Debtors may file a formal objection to your Proof of Claim on one or more bases, including that you failed to provide sufficient information and documentation to support your claim. If the Debtors file such an objection and it is successful, your claim may be disallowed and permanently expunged. If your claim is disallowed and expunged, you will not receive any payment for your claim and any other requests you may have made for non-monetary relief in your Proof of Claim will be denied. Therefore, it is very important that you respond by the date stated above with the requested information and documentation supporting the basis for and amount of your claim.

Residential Capital, LLC P.O. Box 385220 Bloomington, Minnesota 55438

Claim Number: 3734
Jacquelyn O. Wieland, TTE of Marshall O. Culton Rev. Living Trust April 28, 2005
Type: POC

RESCAP

MORRISON | FOERSTER

Claim Information

Claim Number	3734
Basis of Claim Explanation that states the legal and factual reasons why you believe you are owed money or are entitled to other relief from one of the Debtors as of May 14, 2012 (the date the Debtors filed their bankruptcy cases) and, you must provide copies of any and all documentation that you believe supports the basis for your claim.	Please see attached letter concerning Claim Nos. 3734 and 3735.

If your claim relates to a mortgage loan that you believe was originated or serviced by one of the Debtors, please be sure to include the following loan information, so that we can effectively search our records for information on your property and loan, and evaluate your claim.

Loan Number: 0713280846		
Address of property related to the above loan number: 830 West Orange Grove Avenue		
City: Arcadia	State: CA	ZIP Code: 91006

Additional resources may be found at - <http://www.kccllc.net/rescap>

Residential Capital, LLC P.O. Box 385220 Bloomington, MN 55438

Claim Number: 3734
Jacquelyn O. Wieland, TTE of Marshall O. Culton Rev. Living Trust April 28, 2005
Type: POC

Claim #3734 Date Filed: 11/8/2012

B 10 Modified (Official Form 10) (12/11)

UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK			PROOF OF CLAIM
Name of Debtor: RESIDENTIAL (AP, LLC) / EXECUTIVE TRUSTEE SERVICES		Case Number: 12-12020(MG) / 12-12028(MG) (JOINT/ADM)	
NOTE: This form should not be used to make a claim for an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) arising after the commencement of the case. A "request" for payment of an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) may be filed pursuant to 11 U.S.C. § 503.			
Name of Creditor (the person or other entity to whom the debtor owes money or property): JACQUELYN D. WIELAND, TRUSTEE OF MARSHALL O. CULTON REV. LIVING TRUST		<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____ <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars. 5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. §507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5). <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507(a)(). Amount entitled to priority: \$ _____ <small>* Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>	
Name and address where notices should be sent: WILDISH & NIALIS JACQUELYNE O WIELAND, AS TRUSTEE OF THE MARSHALL O CULTON REVOCABLE LIVING TRUST DATED APRIL 28, 2005 VS GMAC MRTG LLC ET AL 500 North State College Blvd., Suite 1200 Orange, CA 92868		<input checked="" type="checkbox"/> Date Stamped Copy Returned <input type="checkbox"/> No self addressed stamped envelope <input type="checkbox"/> No copy to return	
Telephone number: 714 634-8001		email: _____	
Name and address where payment should be sent (if different from above):			
Telephone number: _____		email: _____	
1. Amount of Claim as of Date Case Filed: \$ SEE ATTACHED \$1,566,415.00 If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.			
2. Basis for Claim: SEE ATTACHED (See instruction #2)			
3. Last four digits of any number by which creditor identifies debtor: _____		3a. Debtor may have scheduled account as: _____ (See instruction #3a)	
		3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)	
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff. Attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate: _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable (when case was filed) Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____			
6. Claim Pursuant to 11 U.S.C. § 503(b)(9): Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before May 14, 2012, the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. \$ _____ (See instruction #6)			
7. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #7)			
8. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #8, and the definition of "redacted") DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain: _____			
9. Signature: (See instruction #9) Check the appropriate box. <input checked="" type="checkbox"/> I am the creditor. <input type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (Attach copy of power of attorney, if any.) (See Bankruptcy Rule 3004.) (See Bankruptcy Rule 3005.) I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief. Print Name: <u>JACQUELYN D. WIELAND</u> Title: <u>TRUSTEE OF MARSHALL O</u> Company: <u>CULTON REV LIVING TRUST</u> Address and telephone number (if different from notice address above): _____ Telephone number: _____ Email: _____			

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years

RECEIVED
 NOV - 08 2012
 KURTZMAN CARSON CONSULTANT
 COURT USE ONLY

SUMMARY OF CLAIM AND INTEREST CALCULATION

The Claimant has sued the debtor on a variety of causes of action in the Superior Court of the State of California, Los Angeles County, in the case of **Jacquelyn Wieland, Trustee of the Marshall O. Culton Revocable Living Trust, dated April 28, 2005 v. GMAC Mortgage, LLC et al.** Case No. GC048550. Attached as documentary evidence of the claim is the Second Amended Complaint in this case, which constitutes a detailed pleading of the facts underlying this claim, and further contains exhibits demonstrating the validity of the claim against the debtor. The filing of the Chapter 11 petition herein has stopped the litigation as to the debtor, pursuant to 11 USC § 362 **et seq.** This claim is filed in lieu of litigation as to the debtor. Although multiple parties are listed in the lawsuit, the debtor who is named herein as the subject of this claim is substantively liable for the entire amount of damages set forth below. The amount of the claim is computed as follows:

Damages based on loss of the real property,
as of January 28 2010, wrongfully caused by debtor's acts
and omissions as plead in the complaint, and which are
applicable as to all causes of action.

FMV Value of real property:	\$2,000,000	
Less Mortgage:	1,078,000.	922,000

Attorneys fees to May 14, 2012, Chapter 11 filing date plead and recoverable as per the complaint.	25,187
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Interest from Jan. 28, 2010 to May 14, 2012	119,228
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Interest Calculation: 10% is the statutory legal interest rate in Calif. litigation,
from foreclosure date to date of Chapter 11 filing. Property loss, less mortgage is
\$922,000@10% simple interest= \$92,200 per year, or \$7683.33/month, or \$252.60/day.

Punitive Damages, as plead and recoverable in the complaint.	500,000
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TOTAL: \$1,566,415

0005

Residential Capital, LLC
c/o KCC
2335 Alaska Ave
El Segundo, CA 90245

000137

PRF # 59050***
Case No.: 12-12020
Svc: 3

PackID: 137
NameID: 11080096

Jacquelyn O. Wieland, TTE of Marshall O. Culton Rev. Living Trust
April 28, 2005
Wildish & Nialis
500 North State College Blvd., Suite 1200
Orange, CA 92868

RECEIVED
JUN 26 2013

RESCAP

MORRISON | FOERSTER

June 21, 2013

Claim Number: 3735

Dear Claimant: Jacquelyn O. Wieland, TTE of Marshall O. Culton Rev. Living Trust April 28, 2005

You are receiving this letter because you or someone on your behalf filed a Proof of Claim form in the jointly-administered chapter 11 bankruptcy cases of Residential Capital, LLC ("ResCap"), GMAC Mortgage, LLC and other affiliated debtors and debtors in possession (collectively, the "Debtors") pending before the United States Bankruptcy Court for the Southern District of New York, Case No. 12-12020 (MG) (the "ResCap bankruptcy case"), and we need additional information from you regarding the claim(s) ("claim") you are asserting against the Debtors.

The Information we Need From You Regarding Your Proof of Claim:

We reviewed a copy of the Proof of Claim form and documents that you filed in the ResCap bankruptcy case. A copy of your Proof of Claim form is enclosed for your reference. According to our records, you have filed a lawsuit against one or more of the Debtors. Please reply using the attached form and let us know whether the basis for and amount of the claim contained in the Proof of Claim form are the same or different in any way from the claim you have asserted in your lawsuit against the Debtors. Please ensure that you provide specific detail and support as to the basis for and amount of claim referenced in your Proof of Claim. If your lawsuit has been dismissed or withdrawn, please provide a specific explanation as to why you believe that you are still owed money or entitled to other relief from one or more of the Debtors.

You Must Respond to this Letter by no Later Than July 22, 2013:

In accordance with the Order of the Bankruptcy Court (Docket No. 3294, filed March 21, 2013), you **must** respond to this letter by no later than July 22, 2013 with the requested information and an explanation stating the legal and factual reasons why you believe you are owed money or are entitled to other relief from one or more of the Debtors as of May 14, 2012 (the date the Debtors filed their bankruptcy cases). You **must** also provide copies of any and all documentation that you believe supports the basis for and amount of your claim. A form is included with this letter to assist you in responding to our request for additional information.

Consequences of Failing to Respond:

If you do not provide the requested information regarding the basis for and amount of your claim and the supporting documentation by July 22, 2013, the Debtors may file a formal objection to your Proof of Claim on one or more bases, including that you failed to provide sufficient information and documentation to support your claim. If the Debtors file such an objection and it is successful, your claim may be disallowed and permanently expunged. If your claim is disallowed and expunged, you will not receive any payment for your claim and any other requests you may have made for non-monetary relief in your Proof of Claim will be denied. Therefore, it is very important that you respond by the date stated above with the requested information and documentation supporting the basis for and amount of your claim.

Residential Capital, LLC P.O. Box 385220 Bloomington, Minnesota 55438

Claim Number: 3735
Jacquelyn O. Wieland, TTE of Marshall O. Culton Rev. Living Trust April 28, 2005

RESCAP

MORRISON | FOERSTER

Claim Information

Claim Number	3735
Basis of Claim Explanation that states the legal and factual reasons why you believe you are owed money or are entitled to other relief from one of the Debtors as of May 14, 2012 (the date the Debtors filed their bankruptcy cases) and, you must provide copies of any and all documentation that you believe supports the basis for your claim.	Please see attached letter concerning Claim Nos. 3734 and 3735.

If your claim relates to a mortgage loan that you believe was originated or serviced by one of the Debtors, please be sure to include the following loan information, so that we can effectively search our records for information on your property and loan, and evaluate your claim.

Loan Number: 0713280846		
Address of property related to the above loan number: 830 West Orange Grove Avenue		
City: Arcadia	State: CA	ZIP Code: 91006

Additional resources may be found at - <http://www.kccllc.net/rescap>

Residential Capital, LLC P.O. Box 385220 Bloomington, MN 55438

Claim Number: 3735
Jacquelyn O. Wieland, TTE of Marshall O. Culton Rev. Living Trust April 28, 2005
Type: POC

Claim #3735 Date Filed: 11/8/2012

B 10 Modified (Official Form 10) (12/11)

UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK		PROOF OF CLAIM
Name of Debtor: RESIDENTIAL LAP/GMAC MORTGAGE LLC		Case Number: 12-12020 MG/12-12032 (MG) JOINT ADMIN.
NOTE: This form should not be used to make a claim for an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) arising after the commencement of the case. A "request" for payment of an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity in whom the debtor owes money or property): JACQUELYNE O. WIELAND, TRUSTEE OF THE MARSHALL O. CULTON REVOCABLE LIVING TRUST		<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (if known) Filed on: _____
Name and address where notices should be sent: WILDISH & NIALIS JACQUELINE O WIELAND, AS TRUSTEE OF THE MARSHALL O CULTON REVOCABLE LIVING TRUST DATED APRIL 28, 2005 VS GMAC MRTG LLC ET AL 500 North State College Blvd., Suite 1200 Orange, CA 92868		
Telephone number: 714 634-8001	email: _____	
Name and address where payment should be sent (if different from above): <div style="text-align: right;"> <input checked="" type="checkbox"/> Date Stamped Copy Returned <input type="checkbox"/> No self addressed stamped envelope <input type="checkbox"/> No copy to return </div>		
Telephone number: _____ email: _____		
1. Amount of Claim as of Date Case Filed: SEE ATTACHED \$1,506,415⁰⁰ If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: SEE ATTACHED (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: _____	3a. Debtor may have scheduled account as: (See instruction #3a)	3b. Uniform Claim Identifier (optional): (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable (when case was filed) Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Claim Pursuant to 11 U.S.C. § 503(b)(9): Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before May 14, 2012, the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. \$ _____ (See instruction #6)		
7. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #7)		
8. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #8, and the definition of "redacted") DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain: _____		
9. Signature: (See instruction #9) Check the appropriate box. <input checked="" type="checkbox"/> I am the creditor. <input type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (Attach copy of power of attorney, if any.) (See Bankruptcy Rule 3004.) (See Bankruptcy Rule 3005.) I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief. Print Name: JACQUELYNE O. WIELAND Title: TRUSTEE OF MARSHALL O. CULTON Company: REV. LIVING TRUST Address and telephone number (if different from notice address above): _____ Telephone number: _____ Email: _____		

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

FORM 10-12020-1, 5/17/05-5, domestic, 21A119330115976

1212020120830175138275656

RECEIVED

NOV 08 2012

KURTZMAN CARSON CONSULTING

COURT USE ONLY

SUMMARY OF CLAIM AND INTEREST CALCULATION

The Claimant has sued the debtor on a variety of causes of action in the Superior Court of the State of California, Los Angeles County, in the case of **Jacquelyn Wieland, Trustee of the Marshall O. Culton Revocable Living Trust, dated April 28, 2005 v. GMAC Mortgage, LLC et al.** Case No. GC048550. Attached as documentary evidence of the claim is the Second Amended Complaint in this case, which constitutes a detailed pleading of the facts underlying this claim, and further contains exhibits demonstrating the validity of the claim against the debtor. The filing of the Chapter 11 petition herein has stopped the litigation as to the debtor, pursuant to 11 USC § 362 *et seq.* This claim is filed in lieu of litigation as to the debtor. Although multiple parties are listed in the lawsuit, the debtor who is named herein as the subject of this claim is substantively liable for the entire amount of damages set forth below. The amount of the claim is computed as follows:

Damages based on loss of the real property,
as of January 28 2010, wrongfully caused by debtor's acts
and omissions as plead in the complaint, and which are
applicable as to all causes of action.

FMV Value of real property:	\$2,000,000	
Less Mortgage:	1,078,000	922,000

Attorneys fees to May 14, 2012, Chapter 11 filing date plead and recoverable as per the complaint.	25,187
---	--------

Interest from Jan. 28, 2010 to May 14, 2012	119,228
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Interest Calculation: 10% is the statutory legal interest rate in Calif. litigation,
from foreclosure date to date of Chapter 11 filing. Property loss, less mortgage is
\$922,000@10% simple interest= \$92,200 per year, or \$7683.33/month, or \$252.60/day.

Punitive Damages, as plead and recoverable in the complaint.	500,000
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TOTAL:	\$1,566,415
---------------	--------------------

12/03/2012 15:58 Law Offices

(FAX)17146343869

P.002/104

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 2 MARK A. NIALIS, ESQ., SBN 89923
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 4 500 North State College Boulevard, Suite 1200
 5 Orange, California 92868
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 7 email: rmacadaeg@wildishandnialis.com
 8 email: mnialis@wildishandnialis.com

9 Attorneys for Plaintiff
 10 JACQUELINE O. WIELAND, as Trustee of
 11 THE MARSHELL O. CULTON REVOCABLE
 12 LIVING TRUST DATED APRIL 28, 2005, and
 13 as Successor In Interest of Marshall O. Culton

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF LOS ANGELES, NORTHEAST DISTRICT - BURBANK COURTHOUSE

16 JACQUELINE O. WIELAND, as Trustee of
 17 THE MARSHELL O. CULTON REVOCABLE
 18 LIVING TRUST DATED APRIL 28, 2005, and
 19 as Successor In Interest of Marshall O. Culton,

20 Plaintiff,

21 vs.

22 GMAC MORTGAGE, LLC, a California limited
 23 liability company;
 24 EXECUTIVE TRUSTEE SERVICES, LLC dba
 25 ETS SERVICES LLC, a Delaware limited
 26 liability corporation;
 27 MORTGAGEIT, INC., a New York corporation;
 28 MORTGAGE ELECTRONIC REGISTRATION
 SYSTEMS, INC., a Delaware corporation;
 HSBC BANK USA, NATIONAL
 ASSOCIATION, A National corporation;
 DEUTSCH BANK AG, a German corporation;
 and
 DOES 3 through 50, inclusive,

Defendants.

Case No.: GC048550 **FILED BY FAX**
 [UNLIMITED CIVIL]
 HEARING DATE PENDING

Hearing Type: Case Management Conf. /
 Status Conf. re Bankruptcy

Date: January 31, 2013

Time: 8:30 a.m.

Dept.: NCB B **BY FAX**

**PLAINTIFFS' THIRD AMENDED
 COMPLAINT FOR:**

1. BREACH OF CONTRACT
2. FRAUD;
3. INTENTIONAL MISREPRESENTATION;
4. NEGLIGENT MISREPRESENTATION

Assigned for all purposes to:

Judge: Hon. Donna Fields Goldstein

Dept.: NCB B

Complaint Filed: December 7, 2011

Trial Date: None Set

Plaintiff JACQUELINE O. WIELAND, as the Trustee and Executor of the Marshall O. Culton Estate, alleges as follows:

COMMON ALLEGATIONS

1. Plaintiff JACQUELINE O. WIELAND, as the Successor Trustee of the
 MARSHELL O. CULTON REVOCABLE LIVING TRUST DATED APRIL 28, 2005

1 RONDINE E. MACADAEG, ESQ., SBN 263247
2 MARK A. NIALIS, ESQ., SBN 89923
3 WILDISH & NIALIS
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8 email: mnialis@wildishandnialis.com

Attorneys for Plaintiff
JACQUELINE O. WIELAND, as Trustee of
THE MARSHELL O. CULTON REVOCABLE
LIVING TRUST DATED APRIL 28, 2005, and
as Successor In Interest of Marshall O. Culton

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, NORTHEAST DISTRICT - BURBANK COURTHOUSE

JACQUELINE O. WIELAND, as Trustee of
THE MARSHELL O. CULTON REVOCABLE
LIVING TRUST DATED APRIL 28, 2005, and
as Successor In Interest of Marshall O. Culton,

Plaintiff,

vs.

GMAC MORTGAGE, LLC, a California limited
liability company;
EXECUTIVE TRUSTEE SERVICES, LLC dba
ETS SERVICES LLC, a Delaware limited
liability corporation;
MORTGAGEIT, INC., a New York corporation;
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC., a Delaware corporation;
HSBC BANK USA, NATIONAL
ASSOCIATION, A National corporation;
DEUTSCH BANK AG, a German corporation;
and
DOES 3 through 50, inclusive,

Defendants.

) Case No.: GC048550
) [UNLIMITED CIVIL]
) HEARING DATE PENDING
) Hearing Type: Case Management Conf. /
) Status Conf. re Bankruptcy
) Date: January 31, 2013
) Time: 8:30 a.m.
) Dept.: NCB B **BY FAX**

**PLAINTIFFS' THIRD AMENDED
COMPLAINT FOR:**

1. BREACH OF CONTRACT
2. FRAUD;
3. INTENTIONAL
MISREPRESENTATION;
4. NEGLIGENT
MISREPRESENTATION

Assigned for all purposes to:

Judge: Hon. Donna Fields Goldstein
Dept.: NCB B

Complaint Filed: December 7, 2011
Trial Date: None Set

Plaintiff JACQUELINE O. WIELAND, as the Trustee and Executor of the Marshall O.
Culton Estate, alleges as follows:

COMMON ALLEGATIONS

1. Plaintiff, JACQUELINE O. WIELAND, as the Successor Trustee of THE
MARSHELL O. CULTON REVOCABLE LIVING TRUST DATED APRIL 28, 2005

1 ("Plaintiff" or "WIELAND"), and as the Successor In Interest of Decedent Marshall O. Culton
2 ("CULTON"), is an individual residing in the City of Arcadia, County of Los Angeles, State of
3 California. See attached Declaration of Jacqueline O. Wieland ("Wieland Dec.") as Successor
4 Trustee and Successor In Interest.

5 2. Plaintiff is informed and believes and thereon alleges that Defendant,
6 MORTGAGEIT, INC. ("MORTGAGEIT"), is, and was at all times herein mentioned a foreign
7 corporation organized and existing under the laws of the State of New York, duly licensed and
8 authorized to do and doing business in the State of California.

9 3. Plaintiff is informed and believes and thereon alleges that Defendant,
10 DEUTSCHE BANK AG ("DEUTSCHE BANK"), is, and was at all times herein mentioned, a
11 German business corporation authorized to and doing business in the State of California.

12 4. Plaintiff is informed and believes and thereon alleges that Defendant, HSBC
13 BANK USA, NATIONAL ASSOCIATION ("HSBC"), is, and was at all times herein mentioned,
14 a national banking association organized and existing under the laws of the United States, duly
15 licensed and authorized to do business in the State of California.

16 5. Plaintiff is informed and believes and thereon alleges that Defendant, GMAC
17 MORTGAGE (hereafter referred to as "GMAC") is, and at all times herein mentioned was,
18 limited liability company organized and existing under the laws of the State of California, and
19 doing business in California. [Chapter 11 Bankruptcy pending in the United States Bankruptcy
20 Court, Southern District of New York, *In re Residential Capital, LLC, et al.*, Case No. 12-12020
21 (MG).]

22 6. Plaintiff is informed and believes and thereon alleges that Defendant,
23 EXECUTIVE TRUSTEE SERVICES, LLC dba ETS SERVICES LLC (hereafter referred to as
24 "ETS") is, and at all times herein mentioned was, a foreign corporation organized and existing
25 under the laws of the State of Delaware, authorized to do and doing business in the State of
26 California. [Chapter 11 Bankruptcy pending in the United States Bankruptcy Court, Southern
27 District of New York, *In re Residential Capital, LLC, et al.*, Case No. 12-12020 (MG).]

28 7. Plaintiff is informed and believes and thereon alleges that Defendant,

1 MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (hereafter referred to as
2 "MERS"), is, and at all times herein mentioned was, a foreign corporation organized and existing
3 under the laws of the State of Delaware, authorized to do and doing business in the State of
4 California.

5 8. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as
6 DOES 1 through 50, inclusive, and therefore sues these Defendants by such fictitious names.
7 Plaintiff will amend the Complaint to allege their true names and capacities when ascertained.
8 Plaintiff is informed and believe, and thereon allege, that each of the fictitiously named
9 Defendants is negligently responsible in some manner for the occurrences herein alleged, and
10 that Plaintiff's losses as herein alleged were proximately caused by such negligence.

11 9. Plaintiff is informed and believes and thereon alleges that, at all times herein
12 mentioned, each Defendant was the agent or employee of each of the remaining Defendants and,
13 in doing the things hereinafter alleged, was acting within the course and scope of such agency or
14 employment.

15 10. Plaintiff is informed and believes and thereon alleges that, at all times herein
16 mentioned, each Defendant acted in concert of action with each and every other Defendant in
17 doing the things hereinafter alleged.

18 11. Plaintiff is informed and believes and thereon alleges that at all times herein
19 mentioned, Defendants, and each of them, approved, authorized, directed and ratified the acts of
20 each and every other Defendant in doing the things hereinafter alleged.

21 12. On or about October 16, 2002, CULTON, mother of Plaintiff, purchased the real
22 property located at 830 West Orange Grove Avenue, Arcadia, CA 91006 (the "Subject
23 Property").

24 13. On or about July 12, 2005, CULTON, as Trustee, transferred the Subject Property
25 to THE MARSHALL O. CULTON REVOCABLE LIVING TRUST DATED APRIL 28, 2005,
26 (hereinafter "TRUST"), which was recorded with the Los Angeles County Recorder's Office as
27 Instrument No. 051641340.

28 14. Plaintiff is Decedent CULTON's Successor Trustee and the sole beneficiary of the

1 Subject Property pursuant to the TRUST.

2 15. Pursuant to the TRUST, CULTON declared that she transferred and delivered to
3 the trustee all of her interest in the Subject Property. The Subject Property is listed in the
4 TRUST instrument which Plaintiff, as Successor Trustee, either does not have in her possession
5 or control or which has not already been distributed according to the terms of the TRUST.

6 16. On April 28, 2005, CULTON executed a Trust Transfer Deed transferring the
7 Subject Property to the Trust and recorded this deed on July 12, 2005 in the County of Los
8 Angeles as Instrument No. 20051641339. A true and correct copy of the Trust Transfer Deed is
9 attached to Wieland Dec. as Exhibit "B" and incorporated by this reference; Wieland Dec. ¶ 8.

10 17. Plaintiff is informed and believes and thereon alleges that MORTGAGEIT caused
11 CULTON to take the Subject Property out of the TRUST for purposes of refinancing by way of a
12 note.

13 18. On April 25, 2007, CULTON executed a Quitclaim Deed transferring the Subject
14 Property from the Trust to herself, an unmarried woman, and recorded this deed in the County of
15 Los Angeles as Instrument No. 20071113043 on May 8, 2007. A true and correct copy of the
16 Quitclaim Deed is attached to Wieland Dec. as Exhibit "C" and incorporated by this reference;
17 Wieland Dec. ¶ 9.

18 19. CULTON only transferred the Subject Property out of the TRUST in order to
19 refinance the Subject Property and for no other reason. The deed of trust, dated April 30, 2007
20 (merely 5 days after recording the Quitclaim Deed), was executed by CULTON in the amount of
21 \$970,000.

22 20. Plaintiff is informed and believes and thereon alleges CULTON encumbered the
23 Subject Property with a Note secured by a First Deed of Trust in the amount of \$970,000.00 (the
24 "Subject First Deed of Trust") dated April 30, 2007, which was recorded in the Los Angeles
25 County Recorder's Office on May 8, 2007 as Instrument No. 20071113044 which is in a first
26 priority position. The Subject First Deed of Trust recites MORTGAGEIT as the Lender and
27 further recites that MERS is a "nominee for the Lender and Lender's successors and assigns"
28 and that MERS is the "beneficiary under this Security Instrument." A true and correct copy of the

1 2007 Subject First Deed of Trust is attached to Wieland Dec. as Exhibit "D" and incorporated
2 herein by this reference.

3 21. Plaintiff is informed and believes and thereon alleges that, notwithstanding the
4 Subject First Deed of Trust's recitals regarding MERS as nominee, MERS is also a beneficiary
5 under the Subject First Deed of Trust because of MERS' economic interest and financial gain
6 resulting from its financial interest under the Subject First Deed of Trust and the wrongful
7 foreclosure against the Subject Property. Plaintiff is further informed and believes and thereon
8 alleges that, MERS acted in concert of action with each and every other Defendant to financially
9 gain from the Subject First Deed of Trust.

10 22. Plaintiff is informed and believes and thereon alleges that MORTGAGEIT may
11 have transferred part of its beneficial interest under the Subject First Deed of Trust to
12 DEUTSCHE BANK and HSBC. Plaintiff is further informed and believes and thereon alleges
13 that DEUTSCHE BANK may have transferred part of its beneficial interest under the Subject
14 First Deed of Trust to HSBC. Plaintiff is FURTHER informed and believes and thereon alleges
15 that MORTGAGEIT, DEUTSCHE BANK and HSBC (collectively hereafter as
16 "Lenders/Investors") are the true beneficiaries under the Subject First Deed of Trust because they
17 are the lenders and investors of the Note secured by the Subject First Deed of Trust.

18 23. Plaintiff alleges that MORTGAGEIT failed to record MORTGAGEIT's partial
19 transfers and/or assignments of its beneficial interest under the Subject First Deed of Trust to
20 either DEUTSCHE BANK or HSBC. Plaintiff further alleges that DEUTSCHE BANK also
21 failed to record its partial transfer and/or assignments of its beneficial interest under the Subject
22 First Deed of Trust to HSBC. MORTGAGEIT is the Lender of record title under the Subject
23 First Deed of Trust. Plaintiff is ignorant of Defendants MORTGAGEIT, DEUTSCHE BANK,
24 HSBC and MERS' (collectively as "BENEFICIARIES") exact beneficial interest under the
25 Subject First Deed of Trust as they have failed to record the assignments and/or partial transfers.

26 24. On or about March 31, 2009, a Notice of Default and Election to Sell Under Deed
27 of Trust (the "NOD") was recorded by Defendant ETS against the Subject Property indicating
28 that as of March 27, 2009, CULTON was in default in the amount of \$25,886.23. The NOD was

1 recorded with the Los Angeles County Recorder's Office as Instrument No. 20090459490. (A
2 true and correct copy of which is attached hereto as Exhibit "F.")

3 25. On or about July 2, 2009, a Notice of Trustee's Sale ("NTS") was recorded
4 against the Subject Property. The NTS was recorded with the Los Angeles County Recorder's
5 Office as Instrument No. 20090999746. A true and correct copy of which is attached hereto as
6 Exhibit "G.")

7 26. Subsequent to the recordation of the NOD and NTS, CULTON and Defendant
8 GMAC exchanged communications concerning a foreclosure repayment plan and agreement.

9 27. On or about September 17, 2009, CULTON, for the benefit of the real property,
10 and Defendant GMAC, as Loan Servicing Agent acting on behalf and for the benefit of the
11 BENEFICIARIES under the 2007 Deed of Trust, agreed to enter into a "Foreclosure Repayment
12 Agreement." (A true and correct copy of the Foreclosure Repayment Agreement signed by
13 CULTON is attached hereto as Exhibit "H.") Plaintiff is informed and believes and thereon
14 alleges that Defendant GMAC is in possession of the fully executed copy of the Foreclosure
15 Repayment Agreement. Plaintiff is further informed and believes and thereon alleges that
16 GMAC, as loan servicer, was the agent and employee of each of the remaining Defendants.

17 28. Plaintiff alleges that CULTON attempted to cure the default in the NOD and NTS
18 under the Subject First Deed of Trust by making payments on the "Foreclosure Repayment
19 Agreement" with GMAC. Payments were made pursuant to the Foreclosure Repayment
20 Agreement up to November 2009. Plaintiff is informed and believes and thereon alleges that
21 GMAC accepted CULTON's payments on behalf of and for the benefit of the Beneficiary
22 Investor Pool Defendants under the Subject First Deed of Trust.

23 29. Plaintiff alleges that CULTON performed all conditions, covenants, and promises
24 required on her part to be performed in accordance with the terms and conditions of the
25 Foreclosure Repayment Agreement up to her date of death.

26 30. On or about November 5, 2009, CULTON died. A true and correct copy of the
27 decedent's death certificate is attached to Declaration of Jacqueline O. Wieland re Successor
28 Trustee Status filed concurrently with this Third Amended Complaint ("Wieland Dec.") as

1 Exhibit "A" and incorporated herein by reference. Plaintiff WIELAND is the Successor Trustee
2 of the TRUST. Plaintiff is also the sole beneficiary of the Subject Property, which is TRUST
3 PROPERTY. All other beneficiaries were granted \$100.00 each from the trust property.

4 31. At the date of the death of the CULTON, the record title to the Subject Property
5 was still in the name of Marshall O. Culton, an unmarried woman. CULTON inadvertently
6 failed to transfer the Subject Property back into the TRUST after completing the refinance on the
7 Subject Property. Such property, however, was actually owned by the TRUST because the
8 language in the TRUST Instrument is sufficient to create a trust in the property. The Court is
9 invited to review *California Probate Code* Section 15200(a); *Estate of Heggstad* (1993) 16
10 Cal.App.4th 943, 949; 20 Cal.Rptr.2d 433, wherein the court stated that "a written declaration of
11 trust by the owner of real property, in which he names himself trustee, is sufficient to create trust
12 that property, and the law does not require a separate deed transferring the property to the trust."

13 32. Based on the foregoing, the Probate Court in Case No. GP016044 issued an order,
14 *nunc pro tunc*, that the Subject Property is deemed property of the MARSHELL O. CULTON
15 TRUST at the time of CULTON's death on November 5, 2009.

16 33. Plaintiff alleges that on or about November 15, 2009, *after* CULTON passed
17 away, Plaintiff and her husband Robert Wieland remitted a payment pursuant to the Foreclosure
18 Repayment Agreement, which GMAC accepted on behalf of and for the benefit of the
19 BENEFICIARIES under the Subject First Deed of Trust.

20 34. Plaintiff, as Successor Trustee and as Successor In Interest, promptly notified
21 Defendant GMAC of her mother's death. On or about 12/10/09 at 2:07 p.m., Plaintiff and her
22 husband Robert Wieland called GMAC's Mortgage Loan Servicing Customer Care Department
23 at (866) 725-0782. Defendant GMAC, by and through its representative whose identity is known
24 to GMAC, orally directed Plaintiff and Robert Wieland not to make any payments under the
25 Foreclosure Repayment Agreement. Further, Defendant GMAC, by and through its
26 representative whose identity is known to GMAC, made an express promise to Plaintiff that
27 GMAC would suspend all foreclosure activity concerning the Subject Property and that GMAC
28 would continue to work with Plaintiff and her husband while GMAC determined how to proceed

1 after CULTON's death. (A true and correct copy of Robert Wieland's phone records showing
2 telephone calls made to GMAC Mortgage Loan Servicing Customer Care Department at (866)
3 725-0782 on 12/10/09 and 1/13/11 is attached hereto as Exhibit "I.")

4 35. Pursuant to the express agreement with GMAC, Plaintiff did not make the
5 monthly payment for December 2009 in reliance upon the statements of GMAC's Loan Servicing
6 Customer Care representative whose identity is known to GMAC.

7 36. On or about December 22, 2009, Robert Wieland thereafter provided Defendant
8 GMAC with a copy of CULTON's death certificate, as requested by GMAC. (A true and correct
9 copy of CULTON's death certificate is attached to Wieland Dec. as Exhibit "A.")

10 37. Defendant GMAC failed to note in their records that CULTON had passed away
11 and continued to direct communications to her, despite receiving a copy of Marshall O Culton's
12 death certificate.

13 38. On or about January 8, 2010, Defendant GMAC sent a letter to CULTON stating
14 that the repayment plan previously established at her request was canceled because "the payment
15 was not received by the payment date as specified in the signed repayment agreement."
16 [Emphasis Added] This letter was sent over two months after CULTON passed away and over
17 two weeks after Robert Wieland provided a copy of CULTON's death certificate, as requested by
18 Defendant GMAC. (A true and correct copy of GMAC's letter dated 1/8/10 indirectly admitting
19 the Foreclosure Repayment Agreement between GMAC and CULTON was executed and binding
20 against GMAC is attached hereto as Exhibit "I" and incorporated by reference as though fully set
21 forth herein.)

22 39. Plaintiff is informed and believes and thereon alleges that the BENEFICIARIES
23 under the Subject First Deed of Trust, instructed their agent ETS, to wrongfully foreclose against
24 the Subject Property in breach of GMAC's express agreement with Plaintiff, as Successor
25 Trustee and as Successor In Interest, not to foreclose.

26 40. Plaintiff is informed and believes and thereon alleges that on January 28, 2010,
27 Defendant ETS, acting in concert of action with each and every Defendant, conducted a wrongful
28 foreclosure against the Subject Property by way of a Trustee Sale without any further notice to

1 Plaintiff.

2 41. Had Plaintiff not detrimentally relied on GMAC's representations, Plaintiff would
3 have fully tendered that amount which was in foreclosure at that time, which would have been
4 the payments Plaintiff withheld in reliance on GMAC's representations.

5 42. On or about February 5, 2010, Defendant ETS recorded a Trustee's Deed Upon
6 Sale from ETS to Grandana LLC/Lava rock Investments, LLC which was recorded with the Los
7 Angeles County Recorder's Office as Instrument No. 20100170064. (A true and correct copy of
8 which is attached hereto as Exhibit "K.")

9 43. Plaintiff is informed and believes and thereon alleges that twenty days later, on or
10 about February 26, 2010, a Grant Deed was recorded from Grandana LLC/Lava Rock
11 Investments, LLC to Grandana LLC, Lava Rock Investments, Mansour Meisami and Manzar
12 Meisami, Husband and Wife and E&A LLC, which was recorded with the Los Angeles County
13 Recorder's Office as Instrument No. 20100263451. (A true and correct copy of which is
14 attached hereto as Exhibit "L.")

15 44. Plaintiff is informed and believes and thereon alleges that on or about
16 February 26, 2010, the Subject Property was quickly re-sold without improvements for
17 approximately \$1,500,000. A Grant Deed was recorded from Grandana LLC, Lava Rock
18 Investments, Mansour Meisami and Manzar Meisami, Husband and Wife and E&A LLC to
19 David Robert Kruse and Linda Faye Kruse Co-Trustees of the David and Linda Kruse
20 Community Property Trust, under trust dated 6/26/03, which was recorded with the Los Angeles
21 County Recorder's Office as Instrument No. 20100263451. (A true and correct copy of which is
22 attached hereto as Exhibit "M.")

23 **FIRST CAUSE OF ACTION**

24 **(Breach of Written Contract As Against**

25 **Defendants GMAC, MORTGAGEIT, DEUTSCHE BANK, HSBC, MERS, and DOES 1**

26 **through 50, Inclusive)**

27 45. Plaintiff realleges and incorporates Paragraphs 1 through 44, inclusive, as though
28 fully set forth herein.

1 46. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
2 qualified agent of Defendant MORTGAGEIT. Plaintiff is further informed and believes and
3 thereon alleges that MORTGAGEIT, as principal, is liable for GMAC's acts and omissions
4 alleged herein.

5 47. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
6 qualified agent of Defendant DEUTSCHE BANK. Plaintiff is further informed and believes and
7 thereon alleges that DEUTSCHE BANK, as principal, is liable for GMAC's acts and omissions
8 alleged herein.

9 48. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
10 qualified agent of Defendant HSBC. Plaintiff is further informed and believes and thereon
11 alleges that HSBC, as principal, is liable for GMAC's acts and omissions alleged herein.

12 49. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
13 qualified agent of Defendant MERS. Plaintiff is further informed and believes and thereon
14 alleges that MERS, as principal, is liable for GMAC's acts and omissions alleged herein.

15 50. Plaintiff is informed and believes and thereon alleges that at all times herein
16 alleged, Defendant GMAC, as loan servicer, was acting as an authorized agent and was acting
17 within the course and scope of such agency of MORTGAGEIT, DEUTSCHE BANK, HSBC and
18 MERS (collectively as "BENEFICIARIES") under the Subject First Deed of Trust. Plaintiff is
19 further informed and believes and thereon alleges that Defendants GMAC financially benefitted
20 as the loan servicer agent for Defendants MORTGAGEIT, DEUTSCHE BANK, and HSBC
21 (collectively as "INVESTOR POOL DEFENDANTS") and acted in concert of action with each
22 and every other Defendant in doing the things hereinafter alleged.

23 51. On or about September 17, 2009, CULTON, for the benefit of the real property,
24 and Defendant GMAC, as agent of the BENEFICIARIES, agreed to enter into a "Foreclosure
25 Repayment Agreement." Plaintiff is informed and believes and thereon alleges that Defendant
26 GMAC is in possession of the fully executed copy of the Foreclosure Repayment Agreement
27 (See Exhibit "F" for the Foreclosure Repayment Agreement executed by CULTON on 9/17/09.)
28 Plaintiff is informed and believes and thereon alleges that the Foreclosure Repayment Agreement

1 was a modification of the Note secured by the Subject First Deed of Trust.

2 52. Plaintiff alleges that CULTON performed all conditions, covenants, and promises
3 required on her part to be performed in accordance with the terms and conditions of the
4 Foreclosure Repayment Agreement up to her date of death on or about November 5, 2009.

5 53. Plaintiff is informed and believes and thereon alleges that Defendant GMAC
6 ratified the partially executed Foreclosure Repayment Agreement by accepting CULTON's
7 payments. Plaintiff is informed and believes and thereon alleges that, on or about November 15,
8 2009, Defendant GMAC further accepted the payment remitted by Plaintiff in both her capacities
9 as Successor Trustee and as Successor In Interest.

10 54. Plaintiff WIELAND is the Successor Trustee of the TRUST. Plaintiff is also the
11 sole beneficiary of the Subject Property, which is TRUST Property, *nunc pro tunc*, even though
12 the Subject Property is titled nominally in CULTON's individual name.

13 55. Plaintiff is informed and believes and thereon alleges that CULTON was also the
14 predecessor in interest of the TRUST. It was always CULTON's intent that the Subject Property
15 would remain in the TRUST after her refinance. Plaintiff alleges that CULTON entered into the
16 Note with MORTGAGEIT nominally in her individual capacity, but it was always for the benefit
17 of herself and the Subject Property and it inured to the benefit of the TRUST when the Subject
18 Property was deemed by the Probate Court to be Trust Property, *nunc pro tunc*.

19 56. Plaintiff is CULTON's Successor In Interest, as defined in Code Civ. Proc., §
20 377.11, and succeed to the decedent CULTON's interest in the action in that Plaintiff is the major
21 beneficiary of decedent's estate or other successor in interest who succeeds to the breach of
22 contract cause of action against Defendants, and each of them, or to the Subject Property that is
23 at issue in this action.

24 57. No other person has a superior right to commence the action or to be substituted
25 for the decedent in the pending action, in both Plaintiff's capacities as Successor Trustee and as
26 Successor In Interest.

27 58. Plaintiff, as Successor Trustee and as Successor In Interest, promptly notified
28 Defendant GMAC of her mother's death. Plaintiff and her husband Robert Wieland called

1 GMAC's Mortgage Loan Servicing Customer Care Department at (866) 725-0782. Defendant
2 GMAC, by and through its representative whose identity is known to GMAC, orally directed
3 Plaintiff and Robert Wieland not to make any payments under the Foreclosure Repayment
4 Agreement.

5 59. Plaintiff alleges that Defendant GMAC, by and through its representative whose
6 identity is known to GMAC, entered into an **express agreement** with Plaintiff, as Successor
7 Trustee and as Successor In Interest, that GMAC would suspend all foreclosure activity
8 concerning the Subject Property. Plaintiff further alleges that GMAC made an express promise
9 to Plaintiff concerning TRUST property, that GMAC would continue to work with Plaintiff and
10 her husband while GMAC determined how to proceed after CULTON's death. (A true and
11 correct copy of Robert Wieland's phone records showing telephone calls made to GMAC
12 Mortgage Loan Servicing Customer Care Department at (866) 725-0782 on 12/10/09 and 1/13/11
13 is attached hereto as Exhibit "I.")

14 60. Plaintiff did not make the monthly payment for December 2009 in reliance upon
15 the statements of GMAC's Loan Servicing Customer Care representative whose identity is
16 known to GMAC.

17 61. On or about January 8, 2010, Defendant GMAC sent a letter to CULTON stating
18 that the repayment plan previously established at her request was canceled because "the payment
19 was not received by the payment date as specified in the signed repayment agreement."
20 [Emphasis Added] (Exhibit "J") Plaintiff is informed and believes and thereon alleges that
21 GMAC's letter indirectly admitted to the validity and enforceability of the Foreclosure
22 Repayment Agreement.

23 62. Plaintiff alleges that GMAC had a duty not to foreclose on the subject property
24 pursuant to its express agreement with Plaintiff. Plaintiff further alleges that on or about
25 January 8, 2010, Defendant GMAC breached its express agreement with Plaintiff, as Successor
26 Trustee and Successor In Interest, not to foreclose against the Subject Property. Plaintiff also
27 alleges that GMAC breached its express promise to Plaintiff to suspend all foreclosure activity
28 concerning the Subject Property and that GMAC would continue to work with Plaintiff and her

1 husband while GMAC determined how to proceed after CULTON's death. Plaintiff is informed
2 and believes and thereon alleges that at the time of GMAC's breach, GMAC was acting on
3 behalf of itself and on behalf of and for the benefit of Defendants MORTGAGEIT, DEUTSCHE
4 BANK, HSBC, and MERS.

5 63. Plaintiff is informed and believes and thereon alleges that the BENEFICIARIES
6 under the Subject First Deed of Trust instructed their agent EXECUTIVE TRUSTEE SERVICES
7 to wrongfully foreclose against the Subject Property in breach of GMAC's express agreement
8 with Plaintiff, as Successor Trustee and as Successor In Interest, not to foreclose.

9 64. Plaintiff is informed and believes and thereon alleges that on January 28, 2010,
10 Defendant ETS, acting in concert of action with each and every Defendant, conducted a wrongful
11 foreclosure against the Subject Property by way of a Trustee Sale without any further notice to
12 Plaintiff.

13 65. Plaintiff alleges that she is excused from making payments pursuant to GMAC's
14 express promise not to foreclose against the TRUST property. Had Plaintiff not detrimentally
15 relied on GMAC's representations, Plaintiff would have fully tendered the arrearage at that time,
16 which would have been the payments Plaintiff withheld in reliance on GMAC's express promise.

17 66. As a direct and proximate result of Defendant GMAC's breach of the express
18 agreement with Plaintiff not to foreclose, Plaintiff has been damaged by the wrongful foreclosure
19 against the Subject Property, in an amount according to proof at trial.

20 **SECOND CAUSE OF ACTION**

21 **(Fraud - Promise Made Without Intention to Perform Against**
22 **Defendants GMAC, MORTGAGEIT, DEUTSCHE BANK, HSBC, MERS, ETS**
23 **and DOES 1 through 50, Inclusive)**

24 67. Plaintiff realleges and incorporates herein by reference Paragraph Nos. 1 through
25 66, inclusive, of this Complaint as though set forth in full herein.

26 68. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
27 qualified agent of Defendant MORTGAGEIT. Plaintiff is further informed and believes and
28 thereon alleges that MORTGAGEIT, as principal, is liable for GMAC's acts and omissions

1 alleged herein.

2 69. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
3 qualified agent of Defendant DEUTSCHE BANK. Plaintiff is further informed and believes and
4 thereon alleges that DEUTSCHE BANK, as principal, is liable for GMAC's acts and omissions
5 alleged herein.

6 70. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
7 qualified agent of Defendant HSBC. Plaintiff is further informed and believes and thereon
8 alleges that HSBC, as principal, is liable for GMAC's acts and omissions alleged herein.

9 71. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
10 qualified agent of Defendant MERS. Plaintiff is further informed and believes and thereon
11 alleges that MERS, as principal, is liable for GMAC's acts and omissions alleged herein.

12 72. Plaintiff is informed and believes and thereon alleges that at all times herein
13 alleged, Defendant GMAC, as loan servicer, was acting as an authorized agent and was acting
14 within the course and scope of such agency of MORTGAGEIT, DEUTSCHE BANK, HSBC and
15 MERS (collectively as "BENEFICIARIES") under the Subject First Deed of Trust. Plaintiff is
16 further informed and believes and thereon alleges that Defendants GMAC financially benefitted
17 as the loan servicer agent for Defendants MORTGAGEIT, DEUTSCHE BANK, and HSBC
18 (collectively as "INVESTOR POOL DEFENDANTS") and acted in concert of action with each
19 and every other Defendant in doing the things hereinafter alleged.

20 73. Plaintiff, as Successor Trustee, promptly notified Defendant GMAC of
21 CULTON's death. On or about 12/10/09 at 2:07 p.m., Plaintiff and her husband Robert Wieland
22 called GMAC's Mortgage Loan Servicing Customer Care Department at (866) 725-0782.
23 Defendant GMAC, by and through its representative whose identity is known to GMAC, orally
24 directed Plaintiff and Robert Wieland not to make any payments under the Foreclosure
25 Repayment Agreement. Further, Defendant GMAC, by and through its representative whose
26 identity is known to GMAC, made an express promise to Plaintiff that GMAC would suspend all
27 foreclosure activity concerning the Subject Property and that GMAC would continue to work
28 with Plaintiff and her husband while GMAC determined how to proceed after CULTON's death.

1 (See Exhibit "I" for telephone calls made to GMAC Mortgage Loan Servicing Customer Care
2 Department at (866) 725-0782 on 12/10/09 and 1/13/11).

3 74. At the time Defendant, GMAC made this express promise to Plaintiff concerning
4 the Subject Property, which is TRUST property, GMAC had no intention of performing it. On
5 or about January 8, 2010, Defendant GMAC sent a letter to CULTON stating that the repayment
6 plan previously established at her request was canceled because "the payment was not received
7 by the payment date as specified in the signed repayment agreement." (Exhibit "I")

8 75. The express promise was made by Defendant GMAC by and through it's Loan
9 Servicing Customer Care representative whose identity is known to GMAC, with the intent to
10 induce Plaintiff not to make the monthly payments under the Foreclosure Repayment Agreement
11 so Defendant GMAC could proceed with wrongfully foreclosing against the Subject Property
12 pursuant to the Subject First Deed of Trust. Defendant GMAC knew or should have known to
13 stay the foreclosure proceedings against the Subject Property.

14 76. Plaintiff, at the time GMAC's express promise was made and at the time Plaintiff
15 took the actions herein alleged, was ignorant of Defendant GMAC's secret intention not to
16 perform. Plaintiff could not, in the exercise of reasonable diligence, have discovered Defendant
17 GMAC's secret intention. In reliance on the express promise of Defendant GMAC, Plaintiff did
18 not make a payment pursuant to the Foreclosure Repayment Agreement or pursuant to the
19 express agreement with GMAC, while Plaintiff was waiting for Defendant GMAC's response
20 and direction on how to proceed with the TRUST property. If Plaintiff had known of the actual
21 intention of Defendant GMAC, Plaintiff would have made the monthly payments pursuant to the
22 Foreclosure Repayment Agreement and her subsequent express agreement with GMAC, to
23 ensure the postponement of foreclosure activity against the Subject Property.

24 77. Defendant GMAC failed to abide by its express agreement with Plaintiff to
25 suspend all foreclosure activity against the Subject Property while GMAC determined how to
26 proceed after CULTON's death. Instead, on or about January 28, 2010, GMAC, in concert of
27 action with each and every remaining Defendant caused Defendant ETS to wrongfully foreclose
28 against the Subject Property pursuant to the Notice of Sale dated July 2, 2009 (Exhibits "G" and

1 "K"). But for the promises made by Defendant GMAC, by and through its Loan Servicing
2 Customer Care representative whose identity is known to GMAC, Plaintiff would have made the
3 monthly payments pursuant to the Foreclosure Repayment Agreement or offered full tender of
4 the arrearage at that time.

5 78. As a direct and proximate result of Defendant GMAC's promise made without
6 intention to perform, Plaintiff has been damaged by the wrongful foreclosure against the Subject
7 Property, in an amount according to proof at trial.

8 **THIRD CAUSE OF ACTION**

9 **(Intentional Misrepresentation As Against**

10 **Defendants GMAC, MORTGAGEIT, DEUTSCHE BANK, HSBC, MERS, ETS**

11 **and DOES 1 through 50, Inclusive)**

12 79. Plaintiff realleges and incorporates Paragraphs Nos. 1 through 78, inclusive, as
13 though fully set forth herein.

14 80. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
15 qualified agent of Defendant MORTGAGEIT. Plaintiff is further informed and believes and
16 thereon alleges that MORTGAGEIT, as principal, is liable for GMAC's acts and omissions
17 alleged herein.

18 81. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
19 qualified agent of Defendant DEUTSCHE BANK. Plaintiff is further informed and believes and
20 thereon alleges that DEUTSCHE BANK, as principal, is liable for GMAC's acts and omissions
21 alleged herein.

22 82. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
23 qualified agent of Defendant HSBC. Plaintiff is further informed and believes and thereon
24 alleges that HSBC, as principal, is liable for GMAC's acts and omissions alleged herein.

25 83. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
26 qualified agent of Defendant MERS. Plaintiff is further informed and believes and thereon
27 alleges that MERS, as principal, is liable for GMAC's acts and omissions alleged herein.

28 84. Plaintiff is informed and believes and thereon alleges that at all times herein

1 alleged, Defendant GMAC, as loan servicer, was acting as an authorized agent and was acting
2 within the course and scope of such agency of MORTGAGEIT, DEUTSCHE BANK, HSBC and
3 MERS (collectively as "BENEFICIARIES") under the Subject First Deed of Trust. Plaintiff is
4 further informed and believes and thereon alleges that Defendants GMAC financially benefitted
5 as the loan servicer agent for Defendants MORTGAGEIT, DEUTSCHE BANK, and HSBC
6 (collectively as "INVESTOR POOL DEFENDANTS") and acted in concert of action with each
7 and every other Defendant in doing the things hereinafter alleged.

8 85. Plaintiff, as Successor Trustee, promptly notified Defendant GMAC of
9 CULTON's death. On or about 12/10/09 at 2:07 p.m., Plaintiff and her husband Robert Wieland
10 called GMAC's Mortgage Loan Servicing Customer Care Department at (866) 725-0782.
11 Defendant GMAC, by and through its representative whose identity is known to GMAC, orally
12 directed Plaintiff and Robert Wieland not to make any payments under the Foreclosure
13 Repayment Agreement. Further, Defendant GMAC, by and through its representative whose
14 identity is known to GMAC, made an express promise to Plaintiff that GMAC would suspend all
15 foreclosure activity concerning the Subject Property and that GMAC would continue to work
16 with Plaintiff and her husband while GMAC determined how to proceed after CULTON's death.
17 (See Exhibit "I" for telephone calls made to GMAC Mortgage Loan Servicing Customer Care
18 Department at (866) 725-0782 on 12/10/09 and 1/13/11).

19 86. The representations made by Defendant GMAC to suspend all foreclosure activity
20 concerning the Subject Property while it determined how to proceed after CULTON's death were
21 in fact false. The true facts were that Defendants and each of them did not suspend foreclosure
22 activities against the Subject Property. Instead, on or about January 28, 2010, GMAC, in concert
23 of action with each and every remaining Defendant caused Defendant ETS to wrongfully
24 foreclose against the Subject Property pursuant to the Notice of Sale dated July 2, 2009 (Exhibits
25 "G" and "K").

26 87. When Defendant GMAC made these representations to Plaintiff, GMAC knew
27 them to be false and made these representations with the intention to deceive and defraud
28 Plaintiff and to induce Plaintiff to act in reliance on these representations in the manner hereafter

1 alleged, or with the expectation that Plaintiff would so act. Defendant GMAC knew or should
2 have known to stay the foreclosure proceedings against the Subject Property.

3 88. Plaintiff, at the time said representations was made by Defendant GMAC and at
4 the time Plaintiff took the actions herein alleged, was ignorant of the falsity of Defendant's
5 representations and believed them to be true. In reliance on these representations, Plaintiff was
6 induced to not, and did not, make the monthly payments pursuant to the Foreclosure Repayment
7 Agreement and her subsequent express agreement with GMAC. Had Plaintiff known the actual
8 facts, Plaintiff would have made the payments pursuant to the Foreclosure Repayment
9 Agreement or offered full tender of the arrearage at that time, to ensure the Subject Property was
10 not foreclosed upon. Plaintiff's reliance on Defendant GMAC Loan Servicing Customer Care
11 agent's representations was justified because Plaintiff had no reason to believe Defendant
12 GMAC would wrongfully foreclose against the Subject Property while Plaintiff was ready,
13 willing and able to make payments pursuant to the Foreclosure Repayment Agreement. While
14 Plaintiff was having the above-described discussions with Defendant GMAC, Plaintiff was
15 working on, and making alterations and improvements to, the Subject Property.

16 89. As a direct and proximate result of the fraudulent conduct of Defendants GMAC
17 as herein alleged, Plaintiff was damaged in a sum according to proof at trial.

18 90. The aforementioned conduct of Defendant GMAC was an intentional
19 misrepresentation, deceit, or concealment of a material fact known to the Defendant with the
20 intention on the part of Defendant of thereby depriving Plaintiff of property or legal rights or
21 otherwise causing injury, and was despicable conduct that subjected Plaintiff to a cruel and
22 unjust hardship in conscious disregard of Plaintiff's rights, so as to justify an award of exemplary
23 and punitive damages.

24 **FOURTH CAUSE OF ACTION**

25 **(Negligent Misrepresentation as Against**

26 **Defendants GMAC, MORTGAGEIT, DEUTSCHE BANK, HSBC, MERS, ETS**

27 **and DOES 1 through 50, Inclusive)**

28 91. Plaintiff realleges and incorporates Paragraphs Nos. 1 through 89, inclusive, as

1 though fully set forth herein.

2 92. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
3 qualified agent of Defendant MORTGAGEIT. Plaintiff is further informed and believes and
4 thereon alleges that MORTGAGEIT, as principal, is liable for GMAC's acts and omissions
5 alleged herein.

6 93. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
7 qualified agent of Defendant DEUTSCHE BANK. Plaintiff is further informed and believes and
8 thereon alleges that DEUTSCHE BANK, as principal, is liable for GMAC's acts and omissions
9 alleged herein.

10 94. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
11 qualified agent of Defendant HSBC. Plaintiff is further informed and believes and thereon
12 alleges that HSBC, as principal, is liable for GMAC's acts and omissions alleged herein.

13 95. Plaintiff is informed and believes and thereon alleges that GMAC is the duly
14 qualified agent of Defendant MERS. Plaintiff is further informed and believes and thereon
15 alleges that MERS, as principal, is liable for GMAC's acts and omissions alleged herein.

16 96. Plaintiff is informed and believes and thereon alleges that at all times herein
17 alleged, Defendant GMAC, as loan servicer, was acting as an authorized agent and was acting
18 within the course and scope of such agency of MORTGAGEIT, DEUTSCHE BANK, HSBC and
19 MERS (collectively as "BENEFICIARIES") under the Subject First Deed of Trust. Plaintiff is
20 further informed and believes and thereon alleges that Defendants GMAC financially benefitted
21 as the loan servicer agent for Defendants MORTGAGEIT, DEUTSCHE BANK, and HSBC
22 (collectively as "INVESTOR POOL DEFENDANTS") and acted in concert of action with each
23 and every other Defendant in doing the things hereinafter alleged.

24 97. Plaintiff, as Successor Trustee, promptly notified Defendant GMAC of
25 CULTON's death. On or about 12/10/09 at 2:07 p.m., Plaintiff and her husband Robert Wieland
26 called GMAC's Mortgage Loan Servicing Customer Care Department at (866) 725-0782.
27 Defendant GMAC, by and through its representative whose identity is known to GMAC, orally
28 directed Plaintiff and Robert Wieland not to make any payments under the Foreclosure

1 Repayment Agreement. Further, Defendant GMAC, by and through its representative whose
2 identity is known to GMAC, made an express promise to Plaintiff that GMAC would suspend all
3 foreclosure activity concerning the Subject Property and that GMAC would continue to work
4 with Plaintiff and her husband while GMAC determined how to proceed after CULTON's death.
5 (See Exhibit "T" for telephone calls made to GMAC Mortgage Loan Servicing Customer Care
6 Department at (866) 725-0782 on 12/10/09 and 1/13/11).

7 98. The representations made by Defendant GMAC were in fact false. The true facts
8 were that Defendant did not suspend all foreclosure activities against the Subject Property.
9 Instead, on or about January 28, 2010, GMAC, in concert of action with each and every
10 remaining Defendant caused Defendant ETS to wrongfully foreclose against the Subject Property
11 pursuant to the Notice of Sale dated July 2, 2009 (Exhibits "G" and "K"). Defendant GMAC
12 knew or should have known to stay the foreclosure proceedings against the Subject Property.

13 99. Defendant GMAC made these representations with the intention of inducing
14 Plaintiff to act in reliance on these representations in the manner hereafter alleged, or with the
15 expectation that Plaintiff would so act.

16 100. Plaintiff, at the time said representations were made by Defendant GMAC and at
17 the time Plaintiff took the actions herein alleged, was ignorant of the falsity of Defendant
18 GMAC's representations and believed them to be true. In reliance on these representations,
19 Plaintiff was induced to not, and did not, make the monthly payments pursuant to the Foreclosure
20 Repayment Program or the express agreement Plaintiff entered into with GMAC. Had Plaintiff
21 known the actual facts, Plaintiff would have made the payments pursuant to the Foreclosure
22 Repayment Agreement, or offer full tender of the arrearages at that time, to ensure the Subject
23 Property was not foreclosed upon. Plaintiff's reliance on Defendant GMAC's representations
24 was justified because she had no reason to believe Defendant GMAC would wrongfully foreclose
25 against the Subject Property while Plaintiff was ready, willing and able to make payments
26 pursuant to the Foreclosure Repayment Program or the express agreement with GMAC. While
27 Plaintiff was having the above-described discussions with Defendant GMAC, Plaintiff was
28 working on, and making alterations and improvements to, the Subject Property.

101. As a direct and proximate result of the fraudulent conduct of Defendant GMAC as
herein alleged, Plaintiff was damaged in a sum according to proof at trial.

WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as follows:

On the First Cause of Action:

1. General and special damages in a sum to be determined according to proof.

On the Second Cause of Action:

1. General and special damages in a sum to be determined according to proof.
2. Punitive damages according to proof.

On the Third Cause of Action:

1. General and special damages in a sum to be determined according to proof.
2. Punitive damages according to proof.

On the Fourth Cause of Action

1. General and special damages in a sum to be determined according to proof.

On All Causes of Action:

1. For costs of suit herein incurred.
2. For attorneys' fees and costs as allowed by law and statute, according to proof.
3. For prejudgment interest at the legal rate from the date first allowable by law.
4. For such other and further relief as the Court deems just and proper.

Dated: December 3, 2012

WILDISH & NIALIS

By: 

MARK A. NIALIS
RONDINE E. MACADAEG
Attorney for Plaintiff
JACQUELINE O. WIELAND, as Trustee of
THE MARSHALL O. CULTON
REVOCABLE LIVING TRUST DATED
APRIL 28, 2005 and as Successor In Interest
of Marshall O. Culton

L:\5005 (3971)\Pld\Complaint.04 (TAC).wpd

Exhibit F

Branch :JLA,User :AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id :XT15

This page is part of your document - DO NOT DISCARD



20090459490



Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

03/31/09 AT 08:00AM

Pages:
0003

FEES:	14.00
TAXES:	0.00
OTHER:	0.00
PAID:	14.00



LEADSHEET



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002036665

SEQ:
22

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

135

Branch : LLA, User : ADJ6

Order: 0000000 Title Officer: 00 Comment:

Station Id : XT15

RECORDING REQUESTED BY:

LSI TITLE COMPANY, INC.

WHEN RECORDED MAIL TO:

ETS Services, LLC
2255 North Ontario Street, Suite 400
Burbank, California 91504-3120



TS No.: GM-196568-C

Loan No.: 0713280846

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST

IMPORTANT NOTICE

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS IT MAY BE SOLD WITHOUT ANY COURT ACTION,

and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

This amount is \$25,886.23 as of 3/27/2009, and will increase until your account becomes current. While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition of reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the beneficiary or mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the three month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor. To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

C/O ETS Services, LLC
2255 North Ontario Street, Suite 400
Burbank, California 91504-3120
(818) 260-1600 phone

22K

Branch :ILA,User :AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id :XT15

TS NO.: GM-196568-C

LOAN NO.: 0713280848

NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST

If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale provided the sale is concluded prior to the conclusion of the foreclosure.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.

NOTICE IS HEREBY GIVEN: That Executive Trustee Services, LLC dba ETS Services, LLC is either the original trustee, the duly appointed substituted trustee, or acting as agent for the trustee or beneficiary under a Deed of Trust dated 4/30/2007, executed by MARSHALL O CULTON, AN UNMARRIED WOMAN, as Trustor, to secure certain obligations in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., as beneficiary, recorded 5/8/2007, as Instrument No. 20071113044, in Book , Page , of Official Records in the Office of the Recorder of Los Angeles County, California describing land therein as:

AS MORE FULLY DESCRIBED IN SAID DEED OF TRUST

including ONE NOTE FOR THE ORIGINAL sum of \$970,000.00 ; that the beneficial interest under such Deed of Trust and the obligations secured thereby are presently held by the undersigned; that a breach of, and default in, the obligations for which such Deed of Trust is security has occurred in that payment has not been made of:

Installment of Principal and Interest plus Impounds and/or advances which became due on 11/1/2008 plus late charges, and all subsequent installments of principal, interest, balloon payments, plus impounds and/or advances and late charges that become payable.

That by reason thereof, the present beneficiary under such deed of trust, has executed and delivered to said duly appointed Trustee, a written Declaration of Default and Demand for same, and has deposited with said duly appointed Trustee, such deed of trust and all documents evidencing obligations secured thereby, and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

The undersigned declares that the beneficiary or its authorized agent has declared that they have complied with California Civil Code Section 2923.5 by making contact with the borrower or tried with due diligence to contact the borrower as required by California Civil Code Section 2923.5.

Dated: 3/27/2009

ETS Services, LLC AS AGENT FOR
BENEFICIARY

BY: 

Maria DeBelen
TRUSTEE SALE OFFICER

Exhibit G

Branch:ILA,User:ADJ6

Order: 0000000 Title Officer: 00 Comment:

Station Id :XTJ5

This page is part of your document - DO NOT DISCARD



20090999746



Recorded/Filed In Official Records
Recorder's Office, Los Angeles County,
California

07/02/09 AT 08:00AM

Pages:
0003

FEES:	15.00
TAXES:	0.00
OTHER:	0.00
PAID:	15.00



LEADSHEET



200907020140005

00000802984



002185817

SEQ:
09

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

T35

Branch : LLA, User : AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id :XTJ5

RECORDING REQUESTED BY
ETS Services, LLC

AND WHEN RECORDED MAIL TO:
ETS Services, LLC
2255 North Ontario Street, Suite 400
Burbank, California 91504-3120

T.S. No. GM-196568-C
Loan No. 0713280846

090223002



SPACE ABOVE THIS LINE FOR RECORDER'S USE

NOTICE OF TRUSTEE'S SALE

YOU ARE IN DEFAULT UNDER A DEED OF TRUST DATED 4/30/2007. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

A public auction sale to the highest bidder for cash, cashier's check drawn on a state or national bank, check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, or savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, will be held by the duly appointed trustee. The sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to satisfy the obligation secured by said Deed of Trust. The undersigned Trustee disclaims any liability for any incorrectness of the property address or other common designation, if any, shown herein.

TRUSTOR: MARSHALL O CULTON, AN UNMARRIED WOMAN

Recorded 5/8/2007 as Instrument No. 20071113044 in Book , page of

Official Records in the office of the Recorder of Los Angeles County, California.

Date of Sale: 7/27/2009 at 10:30 AM

Place of Sale: At the west side of the Los Angeles County Courthouse, directly facing Norwalk Blvd., 12720 Norwalk Blvd., Norwalk, California

Property Address is purported to be: 830 WEST ORANGE GROVE AVENUE
ARCADIA, CA 91006

APN #: 5769-015-007

The total amount secured by said Instrument as of the time of initial publication of this notice is \$1,075,490.40, which includes the total amount of the unpaid balance (including accrued and unpaid interest) and reasonable estimated costs, expenses, and advances at the time of initial publication of this notice.

Pursuant to California Civil Code §2923.54 the undersigned, on behalf of the beneficiary, loan servicer or authorized agent, declares as follows:

- [1] The mortgage loan servicer has obtained from the commissioner a final or temporary order of exemption pursuant to Section 2923.53 that is current and valid on the date the notice of sale is filed;
- [2] The timeframe for giving notice of sale specified in subdivision (a) of Section 2923.52 does not apply pursuant to Section 2923.52 or 2923.55.

Branch : JLA, User : AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id : XT15

T.S. No. GM-196588-C
Loan No. 0713280846

Date: 7/1/2009

ETS Services, LLC
2255 North Ontario Street, Suite 400
Burbank, California 91504-3120
Sale Line: 714-730-2727


Sunil Jayasinha, TRUSTEE SALE OFFICER

Exhibit H

09/17/09

FORECLOSURE REPAYMENT AGREEMENT

MARSHELL O CULTON

254 ANGELO PL
ARCADIA CA 91006-1501

RE: Account Number 0713280846
Property Address 830 WEST ORANGE GROVE AVENUE
ARCADIA CA 91006-0000

MARSHELL O CULTON ("Customer") and GMAC Mortgage, LLC ("Lender"), in consideration for the mutual covenants set forth in this Foreclosure Repayment Agreement (the "Agreement"), hereby agree as follows:

1. There is an outstanding debt to the Lender pursuant to a note and mortgage or deed of trust or equivalent security instrument (the "Mortgage") executed on 05/07/07, in the original principal amount of \$970000.00.
2. The account is presently in default for non-payment to Lender of the 01/01/09 installment and all subsequent monthly payments due on the Mortgage for principal, interest, escrows and charges.
3. The amount necessary to cure the default is \$57,870.80 plus such additional amounts that are presently due under the terms of the loan documents as of 09/17/09, and will increase until the default in the account is brought current.
4. Lender has instituted foreclosure proceedings against the property securing the Mortgage indebtedness, which proceedings will continue until the default(s) described herein is/are brought current under the terms of the Mortgage, or otherwise cured as provided for in this Agreement.
5. Notwithstanding the foregoing, Lender agrees to suspend but not terminate foreclosure activity on the default account, provided we receive the executed Agreement and we receive the initial installment in the amount of \$2,790.00 no later than 09/26/09. This executed Agreement can be mailed or faxed to us at:

09/17/09

Account Number 0713280846

Page Two

GMAC Mortgage, LLC
Attention: Default Payment Processor
3451 Hammond Avenue
Waterloo, LA 50702
Fax: 866-340-5043

6. Pursuant to your request you agree to pay the remainder of the default, \$55,080.80, as indicated in the Payment Schedule enclosed and made a part hereof by reference. Customer understands that payments due under the Payment Schedule may include amounts due for real estate taxes and insurance, and the Payment Schedule amounts may, in such event, have to be increased, at the sole option of the Lender, if the items for such escrow purposes should increase during the duration of the Agreement.
7. All payments under this Agreement, including the regular monthly payments, shall be made in certified funds or cashier's check, shall include the account number on the Customer's check or on a written attachment to the check, and shall be sent to the following address:

GMAC Mortgage, LLC
Attention: Default Payment Processor
3451 Hammond Avenue
Waterloo, LA 50702

Additional methods of remitting payments under this agreement are:

- Money Gram using a Receive Code of 2365
- Western Union using a Code City and State of Home, LA

If payment is tendered in any other form, Lender may return the payment and invoke any remedies available under the loan documents and this Agreement.

8. In the event we do not receive timely payment called for under this Agreement, Lender may, without further notice to Customer, undertake or continue collection or foreclosure activities. In such event, any payments tendered under this Agreement shall be applied to the account in the manner specified in the Mortgage, and there will be no right to a refund of the tendered funds. In the event Lender chooses to accept any payment not in the full amount called for under this Agreement, such acceptance shall not be deemed a waiver of Lender's right to declare a default under this Agreement. Upon any default in meeting the terms of this Agreement, any such payments received under the terms of this Agreement shall be applied first against the default in the account, with the excess, if any, then applied according to the terms of the Mortgage. The parties expressly understand and agree time shall be of the essence as to the obligation under this Agreement.

SEP-17-2009 10:00 PM FRUIT REFINANCING

2145142131

10:00:00:10011

P. 004/006

09/17/09

Account Number 0713280846

Page Three

9. Customer understands and agrees that all other provisions, covenants and agreements set forth in the Mortgage shall remain in force and effect during the duration of this Agreement and thereafter, and this Agreement shall not constitute a modification or extension of the Mortgage.
10. If a notice of a new or subsequent bankruptcy is received during the duration of this Agreement, the Agreement will automatically be voided.
11. Acceptance of any payment hereunder shall not constitute a cure nor be deemed a waiver of the existing default, and in no manner shall such acceptance prejudice any rights of Lender to proceed with the Trustee Sale Action noticed in the Notice of Default, and shall not constitute a violation of California Code of Civil Procedure Section 726.580(a), 580(d) (the One Form of Action Rule), and shall not invalidate the Notice of Default. Customer expressly relinquishes and waives any rights, claims and defenses Customer may have under any of the Code of Civil Procedure Sections or under the Loan with regard to any whole or partial payments, whether current, past or future.
12. If any additional amounts are added to the loan to be collected that have not been addressed in this agreement, those amounts will need to be paid at the conclusion of this agreement.

Notice: This is an attempt to collect a debt, and any information obtained will be used for that purpose. If your debt has been discharged in bankruptcy, our rights are being exercised against the collateral for the above-referenced account, not as a personal liability.

If you have any additional questions, please contact us at 800-850-4622, extension .

Loss Mitigation Department
Loan Servicing

Enclosure

SEP-17-2009 13:30 FROM:HF REALCHOICES

2148742197

TO:6263576617

P. 005/006

09/17/09
Account Number 0715280846
Page Four

***** CERTIFIED FUNDS ONLY *****

NOTE: There is no grace period during this Agreement. Pursuant to your request and in order to cure the default on this account, all payments must be received on or before the due date.

RECEIVED AND AGREED:

Marshall O Culton (Seal)
MARSHALL O CULTON
Customer

SEPT. 17, 09
Date

Customer

Date

Upon receipt of the signed agreement, we as the Servicer will also execute to indicate our concurrence with this agreement.

Servicer

5:15

SIGN AND RETURN THIS PAGE ONLY

***** FAX TO 866-340-5043 *****

SEP-17-2009 13:30 FROM:HF REALCHOICES

2148742197

TO:6263576617

P. 006-006

EMAC Mortgage, LLC
PO Box 780

PAGE 1
DATE 09/17/09

Waterloo

IA 50704-0786

REPAYMENT AGREEMENT- 713260846

----- MAIL ----- PROPERTY -----

MARSHALL O CULTON

754 ANGELO PL

830 WEST ORANGE GROVE AVENUE

ARCADIA

CA 91006-1501 ARCADIA

CA 91006-0000

----- DATES -----		----- CURRENT BALANCES -----		----- UNCOLLECTED -----	
AD TO	12/01/08	PRINCIPAL	1006097.35	LATE CHARGES	1051.42
EXT DUE	01/01/09	ESCROW	-25016.46	OPTIONAL INS	0.00
AST PMT	06/13/09	UNAPPLIED FUNDS	3162.22	INTEREST	0.00
ADIT DT	05/11/07	UNAPPLIED CODES	F	FEE\$	170.50
LAST ACTIVITY	05/17/09	BUYDOWN FUNDS	0.00	DFLT EXP PD	2649.58
		BUYDOWN CODE		DFLT EXP UNPD	0.00

WT	PLAN PMT	PLAN PMT	AMOUNT TO	AMT TO	UNAPPLIED	FIRST/LAST
UN	DUE DATE	AMOUNT	REG PMT	LC/UNCOL	BALANCE	PMT APPLIED
1	05/26/09	2790.00	0.00	0.00	5952.22	
2	10/26/09	2790.00E	6249.82	0.00	2492.40	01/09
3	11/26/09	2790.00	0.00	0.00	5262.30	
4	12/26/09	2790.00	6249.82	0.00	1822.58	02/09
5	01/26/10	66990.74*	64741.42	4071.90	0.00	03/09 01/10

PLAN TOTAL 70150.74

ESCROW CHANGE A - ALTERNATIVE LOAN P&I CHANGE B - BUYDOWN SUBSIDY CHANGE

(WE) AGREE TO THE REPAYMENT SCHEDULE AS SET FORTH ABOVE. THE AMOUNT OF EACH
PAYMENT IS SUBJECT TO CHANGE BASED ON SCHEDULED ALTERNATIVE MORTGAGE P&I, ESCROW
OTHER PAYMENT CHANGES. ALL PROVISIONS OF THE NOTE AND MORTGAGE/DEED OF TRUST
SHALL BE IN FULL FORCE AND EFFECT.

MARSHALL O CULTON

20 COLLIER

Exhibit I

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0000000000

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A3 of 7

Customer Account Number Bill Date
Robert Wieland 245436617 Dec 01 - Dec 31 Jan 04, 2010

Call details

(626) 975-2810 (Continued)

Date	Time	Phone Number	Call Destination	Rate Type	Minutes Used	Total Charges
97	12/09 01:06 PM	519-293-3776	ALHAMBRA, CA	PU	1	
98	12/09 03:18 PM	519-293-3776	ALHAMBRA, CA	PU	1	
99	12/09 03:18 PM	519-293-3776	LOS ANGELES, CA	PU	2	
100	12/09 03:46 PM	323-350-7629	Incoming	PU	3	
101	12/09 04:08 PM	519-293-3776	ALHAMBRA, CA	PU	5	
102	12/09 04:10 PM	281-358-3186	HMBL SOHMLTX	FC	4	
103	12/09 05:41 PM	519-293-3776	Incoming	PU	9	
104	12/09 05:14 PM	414-281-5864	MILWAUKEE, WI	PU	7	
105	12/10 11:35 AM	519-293-3776	ALHAMBRA, CA	PU	1	
106	12/10 11:44 AM	626-353-5416	ARCADIA, CA	PU	2	
107	12/10 11:46 AM	626-353-5416	ARCADIA, CA	PU	1	
108	12/10 11:47 AM	519-293-3776	Canada, ON	ID	2	\$0.18
109	12/10 12:00 PM	814-932-8193	ALTOONA, PA	PU	2	
110	12/10 12:19 PM	323-350-7629	LOS ANGELES, CA	PU	3	
111	12/10 01:32 PM	506-558-6000	Incoming	PU	1	
112	12/10 02:05 PM	519-293-3776	ALHAMBRA, CA	PU	1	
113	12/10 02:27 PM	506-558-6000	Incoming	PU	9	
114	12/10 03:26 PM	814-932-8193	Incoming	PU	2	
115	12/10 03:41 PM	323-350-7629	LOS ANGELES, CA	PU	2	
116	12/10 04:39 PM	414-281-5864	MILWAUKEE, WI	PU	12	
117	12/10 05:15 PM	323-350-7629	LOS ANGELES, CA	PU	3	
118	12/10 09:30 PM	831-869-8245	MONTEREY, CA	NW/PU	4	
119	12/10 09:45 AM	519-293-3776	Canada, ON	ID	1	\$0.09
120	12/11 04:39 PM	814-932-8193	Incoming	PU	2	
121	12/12 07:24 PM	631-418-1083	Incoming	NW/PU	3	
122	12/12 09:39 PM	676-793-7300	PSDN MAIN, CA	NW/PU	1	
123	12/13 01:26 PM	213-800-9812	LOS ANGELES, CA	NW/PU	2	
124	12/13 02:19 PM	519-293-3776	Incoming	NW/PU	38	
125	12/13 02:27 PM	519-293-3776	ALHAMBRA, CA	NW/PU	2	
126	12/14 12:51 PM	310-993-1000	BEVERLYHLS, CA	PU	2	
127	12/14 07:34 PM	519-293-3776	Canada, ON	ID	2	\$0.18
128	12/14 03:14 PM	310-993-1000	Incoming	PU	1	
129	12/14 06:54 PM	519-293-3776	Incoming	PU	15	
130	12/14 07:34 PM	814-932-8193	ALTOONA, PA	PU	2	
131	12/15 10:13 AM	506-558-6000	Incoming	PU	4	
132	12/15 10:52 AM	562-846-0622	Incoming	PU	4	

0000000000



133	12/15	11:15 AM	Unavailable	Incoming	AWPU	3
134	12/15	11:17 AM	Unavailable	Incoming	AWPU	1
135	12/15	11:17 AM	814-892-8194	ALTOONA, PA	AWPU	1
136	12/15	11:18 AM	814-932-8193	ALTOONA, PA	AWPU	8
137	12/15	11:25 AM	856-298-5639	Incoming	PU	1
138	12/15	11:43 AM	856-498-5619	VINELAND, NJ	PU	4
139	12/15	12:16 PM	222-365-7629	Incoming	PU	2
140	12/15	01:06 PM	519-293-3776	Incoming	PU	1
141	12/15	01:33 PM	562-846-1623	WHITTIER, CA	PU	8
142	12/15	01:51 PM	VoiceMail	ALHAMBRA, CA	PU	2
143	12/15	02:00 PM	305-802-0177	POMEREAUX, CA	PU	8

PU - Plan/Promotional Usage FC - Free Call LD - Long Distance Charges NW - Night and Weekends
AM - Off Network - Included in America Plan

0003/0003

KINKUS

03/10/2011 14:18 FAX 62633/6617



Customer Account Number Bill Period Bill Date
Robert Wieland 245436617 Jan 01 - Jan 31 Feb 04, 2010

A3 of 9

Call details

(626) 975-2810 (Continued)

Date	Time	Phone Number	Call Destination	Rate Type	Minutes Used	Total Charges
96	01/11 11:18 AM	626-447-2155	Incoming	PU	1	
97	01/11 12:01 PM	761-504-1980	718UNITE, TX	PU	25	
98	01/11 12:29 PM	818-481-7458	VAN NUYS, CA	PU	3	
99	01/11 12:41 PM	714-832-2950	SANTA ANA, CA	PU	5	
100	01/11 12:56 PM	714-832-2950	SANTA ANA, CA	PU	5	
101	01/11 01:00 PM	818-481-7458	Incoming	CVMPU	1	
102	01/11 01:00 PM	714-832-2950	SANTA ANA, CA	PU	1	
103	01/11 01:00 PM	818-481-7458	VAN NUYS, CA	PU	4	
104	01/11 01:10 PM	519-293-3776	Canada, ON	LD	2	50.18
105	01/11 01:47 PM	830-473-1494	BAMMEL, TX	PU	4	
106	01/11 01:53 PM	832-473-1494	BAMMEL, TX	PU	4	
107	01/11 01:57 PM	714-832-2950	Incoming	CVMPU	5	
108	01/11 02:02 PM	831-869-8245	MONTEREY, CA	PU	2	
109	01/11 02:29 PM	809-516-9200	ROSELIE, IL	PU	2	
110	01/11 03:05 PM	713-724-3600	HOUSTON, TX	PU	3	
111	01/11 03:11 PM	570-815-1626	SCRANTON, PA	PU	3	
112	01/11 03:18 PM	570-815-1626	SCRANTON, PA	PU	3	
113	01/11 03:56 PM	800-848-9380	Incoming	PU	3	
114	01/11 07:03 PM	962-846-0622	WHITTIER, CA	PU	3	
115	01/11 07:03 PM	962-846-0622	WHITTIER, CA	PU	3	
116	01/12 01:16 PM	626-445-0271	Incoming	PU	2	
117	01/12 01:38 PM	213-278-7135	LOS ANGELES, CA	PU	4	
118	01/12 01:41 PM	814-932-8193	ALTOONA, PA	PU	2	
119	01/12 01:46 PM	310-993-1000	BEVERLYHLS, CA	PU	5	
120	01/12 01:55 PM	310-993-1000	BEVERLYHLS, CA	PU	1	
121	01/12 02:54 PM	310-993-1000	BEVERLYHLS, CA	PU	7	
122	01/12 02:55 PM	519-293-3776	Incoming	PU	2	
123	01/12 03:18 PM	213-278-7135	LOS ANGELES, CA	PU	2	
124	01/12 03:21 PM	760-217-0754	VICTORVILLE, CA	PU	2	
125	01/12 03:56 PM	814-932-8193	ALTOONA, PA	PU	3	
126	01/12 03:31 PM	814-932-8193	Incoming	PU	4	
127	01/12 03:54 PM	310-993-1000	Incoming	PU	2	
128	01/12 04:03 PM	814-932-8193	ALTOONA, PA	PU	2	
129	01/12 04:12 PM	814-932-8193	Incoming	PU	5	
130	01/12 04:32 PM	626-353-5416	ARCADIA, CA	PU	2	
131	01/12 05:27 PM	814-932-8193	ALTOONA, PA	PU	3	
132	01/12 06:44 PM	800-669-0102	Incoming	PU	1	

002478 60



LINE	DATE	TIME	NUMBER	TYPE	CHARGE	PU
132	01/12	06:45 PM	800-669-0102	incoming	PU	1
133	01/12	06:45 PM	800-669-0102	incoming	PU	8
134	01/12	06:53 PM	626-375-0355	incoming	PU	10
135	01/12	08:21 PM	310-257-4433	incoming	PU	5
136	01/12	09:21 PM	VoiceMail	incoming	NW/PU	6
137	01/13	08:47 AM	310-393-1800	incoming	PU	1
138	01/13	10:04 AM	626-353-5416	incoming	PU	1
139	01/13	11:45 AM	760-245-0478	incoming	PU	8
140	01/13	12:39 PM	909-994-7299	incoming	PU	12
141	01/13	12:50 PM	626-352-5896	incoming	PU	10
142	01/13	01:31 PM	814-937-8193	incoming	PU	10
143	01/13	02:55 PM	800-229-0787	incoming	PU	8

PU - Plan/Promotional Usage CW - Call Waiting LD - Long Distance Charges NW - Night and Weekends

Exhibit I

GMAC Mortgage

3451 Hammond Ave
P.O. Box 780
Waterloo, IA 50704-0780

01/08/10

MARSHELL O CULTON

254 ANGELO PL
ARCADIA CA 91006-1501

RE: Account Number 0713280846
Property Address 830 WEST ORANGE GROVE AVENUE
ARCADIA CA 91006-0000

Dear MARSHELL O CULTON

The repayment plan we previously established at your request has been canceled for one or more of the following reasons:

☐ The payment received does not represent the correct amount as specified in the signed repayment agreement.

☒ The payment was not received by the payment due date as specified in the signed repayment agreement.

☐ The signed repayment agreement has not been received.

☐ The required contribution has not been received.

Notice -- This is an attempt to collect a debt and any information obtained will be used for that purpose. If your debt has been discharged in bankruptcy, our rights are being exercised against the collateral for the above-referenced loan, not as a personal liability.

At this time, the default proceedings will resume. If you wish to discuss the status of your account or the canceled payment plan, please contact the Loss Mitigation Department at 800-850-4622, extension .

Loss Mitigation Department
Loan Servicing

5:86

Exhibit K

Branch :LLA>User :AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id :XT15

This page is part of your document - DO NOT DISCARD



20100170064



Pages:
0004

Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

02/05/10 AT 11:52AM

FEES:	21.00
TAXES:	NEPR
OTHER:	0.00
PAID:	NEPR



LEADSHEET



201002050050040

00001894306



002528522

SEQ:
01

DAR - Counter (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

Branch :LLA,User :AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id :XT15

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:
GRANDANA LLC/ LAVA ROCK INVESTMENTS LLC
13405 ARTESIA BLVD
CERRITOS, CA 90703

Forward Tax Statements to
the address given above



TS # GM-198568-C

LOAN # 0713280846

INVESTOR #: 0000000000000

TITLE ORDER # 090223002-CA-MSI

SPACE ABOVE LINE FOR RECORDER'S USE

TRUSTEE'S DEED UPON SALE

APN 5769-015-007

TRANSFER TAX: \$

The Grantee Herein Was Not The Foreclosing Beneficiary.

The Amount Of The Unpaid Debt was \$1,078,074.88

The Amount Paid By The Grantee Was

Said Property Is In The City Of ARCADIA, County of Los Angeles

TRANSFER TAX
NOT A PUBLIC RECORD

Executive Trustee Services, LLC dba ETS Services, LLC, as Trustee, (whereas so designated in the Deed of Trust hereunder

more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

GRANDANA LLC/ LAVA ROCK INVESTMENTS LLC

(herein called Grantee) but without covenant or warranty, expressed or implied, all right title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Los Angeles, State of California, described as follows:

SEE EXHIBIT "A"

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by MARSHALL O CULTON, AN UNMARRIED WOMAN as Trustor, dated 4/30/2007 of the Official Records in the office of the Recorder of Los Angeles, California under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Default and Election to Sell under the Deed of Trust recorded on 5/8/2007, instrument number 20071113044 (or Book, Page) of Official records. Trustee having complied with all applicable statutory requirements of the State of California and performed all duties required by the Deed of Trust including sending a Notice of Default and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified mail, postage pre-paid to each person entitled to notice in compliance with California Civil Code 2924b.

[Page 1 of 2]

Branch : LLA, User : AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id :XT15

3
TRUSTEE'S DEED UPON SALE

Trustee's Deed
T.S.# GM-196568-C
Loan # 0713280846
Title Order # 090223002-CA-MSI

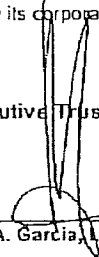
All requirements per California Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on 1/28/2010. Grantee, being the highest bidder at said sale became the purchaser of said property for the amount bid, being in lawful money of the United States, in pro per, receipt there of is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, Executive Trustee Services, LLC dba ETS Services, LLC., as Trustee, has this day, caused its name to be hereunto affixed by its officer thereunto duly authorized by its corporation by-laws

Date: 1/28/2010

LLC

Executive Trustee Services, LLC dba ETS Services,

By: 
Max A. Garcia, Limited Signing Officer

State of California } S.S.
County of Los Angeles }

On 2/3/2010 before me, Gisela A. Clark, Notary Public, personally appeared Max A. Garcia who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

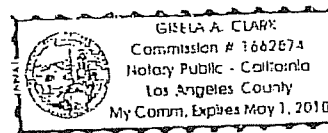
I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature


Gisela A. Clark

(Seal)



[Page 2 of 2]

Branch : LLA, User : AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id : XTJ5

4

EXHIBIT A

LEGAL DESCRIPTION

REF. NO. GM-196568-C

REAL PROPERTY IN THE CITY OF ARCADIA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 2 OF TRACT 948, IN THE CITY OF ARCADIA, AS PER MAP RECORDED IN BOOK 17 PAGE 21 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE NORTH LINE OF SAID LOT 2, SAID POINT BEING THE NORTHWEST CORNER OF THAT PARCEL OF LAND CONVEYED TO NORMAN CHANDLER ET UX., AND DESCRIBED IN DEED RECORDED IN BOOK 15466 PAGE 274, OFFICIAL RECORDS; THENCE SOUTH 88 DEGREES 53' 40" WEST ALONG THE NORTH LINE OF SAID LOT 2, 165 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88 DEGREES 53' 40" WEST ALONG THE NORTH LINE OF SAID LOT 2, 165 FEET; TO THE TRUE POINT OF BEGINNING; SOUTH 88 DEGREES 53' 40" WEST ALONG THE NORTH LINE OF SAID LOT 2, 165 FEET; THENCE SOUTH 1 DEGREES 06' 20" EAST, 260.65 FEET; THENCE NORTH 88 DEGREES 53' 40" EAST 165 FEET; THENCE NORTH 1 DEGREES 06' 20" WEST, 269.65 FEET TO THE TRUE POINT OF BEGINNING.

Exhibit L

This page is part of your document - DO NOT DISCARD



20100263451



Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

02/26/10 AT 08:00AM

Pages:
0003

FEES:	22.00
TAXES:	0.00
OTHER:	0.00
PAID:	22.00



LEADSHEET



201002260190013

00001984451



002559006

SEQ:
20

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

t01

Branch :LLA,User :AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id :XT15

RECORDING REQUESTED BY:

Order No. 106015699-H07
Escrow No. 21107-CT
Parcel No. 5769-015-007



AND WHEN RECORDED MAIL TO:

GRANDANA LLC
12654 MISTY PLACE
CERRITOS, CA 90703

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S) THAT DOCUMENTARY TRANSFER TAX IS \$-0- and CITY \$-0-

- ☐ computed on full value of property conveyed, or
☐ computed on full value less liens or encumbrances remaining at the time of sale.
☐ unincorporated area: ☒ Arcadia, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Grandana LLC / Lava Rock Investments LLC

hereby GRANT(S) to Grandana LLC, Lava Rock Investments LLC, Mansour Meisami and Manzar Meisami,
Husband and Wife and E&A LLC

the following described real property in the County of Los Angeles, State of California:

See Exhibit "A" attached hereto and made a part thereof.

"This conveyance is to secure a debt, R & T 11921."

Date February 18, 2010

Grandana LLC

By: Grace Hu, Members

Lava Rock Investments LLC

By: Derek Kam, Managing Member

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

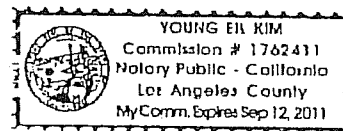
On February 18th, 2010, before me, Young Eil Kim, Notary Public
personally appeared Grace Hu and Derek Kam who proved to me on the basis of satisfactory evidence to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is
true and correct.

WITNESS my hand and official seal.

Signature

(Seal)



Mail Tax Statement to SAME AS ABOVE or Address Noted Below

THE GRANTORS AND THE GRANTEEES IN THIS
CONVEYANCE ARE COMPRISED OF THE SAME PARTIES
WHO CONTINUE TO HOLD THE SAME PROPORTIONATE
INTEREST IN THE PROPERTY, R & T 11921(A).

Branch :ILA,User :AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id :XT15

Order No: 106015659 -H07

EXHIBIT "A"
LEGAL DESCRIPTION

3

THAT PORTION OF LOT 2 OF TRACT NO. 948, IN THE CITY OF ARCADIA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 17 PAGE 21 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

COMMENCING AT A POINT IN THE NORTH LINE OF SAID LOT 2, SAID POINT BEING THE NORTHWEST CORNER OF THAT PARCEL OF LAND CONVEYED TO NORMAN CHANDLER ET UX., AND DESCRIBED IN DEED RECORDED IN BOOK 15466 PAGE 274, OFFICIAL RECORDS; THENCE SOUTH 88 DEGREES 53' 40" WEST ALONG THE NORTH LINE OF SAID LOT 2, 165 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88 DEGREES 53' 40" WEST ALONG THE NORTH LINE OF SAID LOT 2, 165 FEET; THENCE SOUTH 1 DEGREES 06' 20" EAST, 269.66 FEET; THENCE NORTH 88 DEGREES 53' 40" EAST 165 FEET; THENCE NORTH 1 DEGREES 06' 20" WEST, 269.66 FEET TO THE TRUE POINT OF BEGINNING.

LG1DESC-0426/P

Exhibit M

This page is part of your document - DO NOT DISCARD



20100263452



Pages:
0005

Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

02/26/10 AT 08:00AM

FEES:	28.00
TAXES:	1,647.80
OTHER:	0.00
PAID:	1,675.80



LEADSHEET



201002260190013

00001984452



002559086

SEQ:
21

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

101

Branch :ILA,User :AD16

Order: 0000000 Title Officer: 00 Comment:

Station Id :XT15

RECORDED AT THE REQUEST OF
CHICAGO TITLE COMPANY

RECORDING REQUESTED BY:
Order No. 106015699-H07
Escrow No. 21107-CT
Parcel No. 5769-015-007

AND WHEN RECORDED MAIL TO:

DAVIDA KRUSE
1205 RODEO
ARCADIA, CA 91006



SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S) THAT DOCUMENTARY TRANSFER TAX IS \$1,647.80 and CITY \$-0-

- ☒ computed on full value of property conveyed, or
☐ computed on full value less liens or encumbrances remaining at the time of sale.
☐ unincorporated area: ☒ Arcadia, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Grandana LLC, Lava Rock Investments LLC, Mansour Meisami and Manzar Meisami, Husband and Wife
and E&A LLC

hereby GRANT(S) to David Robert Kruse and Linda Faye Kruse Co-Trustees of the David and Linda Kruse
Community Property Trust, under trust dated 6/26/03

the following described real property in the County of Los Angeles, State of California:
See Exhibit "A" attached hereto and made a part thereof.

Date February 18, 2010

Grandana LLC

By: Grace Hu, Members

Lava Rock Investments LLC

By: Derek Kam, Managing Member

E&A LLC

By: Helen Lin

Mansour Meisami

Manzar Meisami

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

)
)S.S.
)

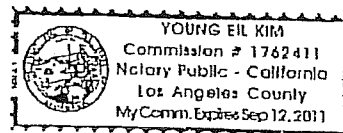
On February 18th, 2010, before me, Young Eil Kim, Notary Public
personally appeared Grace Hu and Derek Kam who proved to me on the basis of satisfactory evidence to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is
true and correct.

WITNESS my hand and official seal.

Signature

(Seal)



Mail Tax Statement to: SAME AS ABOVE or Address Noted Below

ACKNOWLEDGMENT

State of California

County of Los Angeles

On Feb 19th, 2010 before me, Young Eil Kim, Notary Public
(here insert name and title of the officer)

personally appeared Mansour Meisami and Manzar Meisami

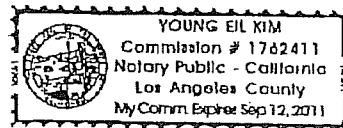
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Young Eil Kim



(Seal)

OPTIONAL INFORMATION

Description or Title of the Attached Document: Grant Deed

Number of Pages: _____ Document Date: Feb 10, 2010

Capacity Claimed by Signer(s):

- ☐ Individual(s)
- ☐ Corporate Officer(s): _____
- ☐ Trustee(s)
- ☐ Attorney-in-Fact
- ☐ Partner(s)
- ☐ Other: _____

ACKNOWLEDGMENT

4

State of California
County of Los Angeles

On Feb 22, 2010 before me, Young Eil Kim, Notary Public
(here insert name and title of the officer)

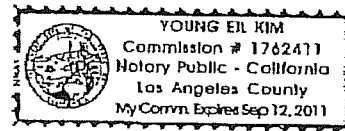
personally appeared Helen Lin

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he she they executed the same in his her their authorized capacity(ies) and that by his her their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Young Eil Kim*



(Seal)

OPTIONAL INFORMATION

Description or Title of the Attached Document:	<u>Grant Deed</u>
Number of Pages: _____	Document Date: <u>Feb 18, 2010</u>

Capacity Claimed by Signer(s):
<input type="checkbox"/> Individual(s)
<input type="checkbox"/> Corporate Officer(s): _____
<input type="checkbox"/> Trustee(s)
<input type="checkbox"/> Attorney-in-Fact
<input type="checkbox"/> Partner(s)
<input type="checkbox"/> Other: _____

Order No: 106015699-H07

EXHIBIT "A"

LEGAL DESCRIPTION

THAT PORTION OF LOT 2 OF TRACT NO. 948, IN THE CITY OF ARCADIA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 17 PAGE 21 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

COMMENCING AT A POINT IN THE NORTH LINE OF SAID LOT 2, SAID POINT BEING THE NORTHWEST CORNER OF THAT PARCEL OF LAND CONVEYED TO NORMAN CHANDLER ET UX., AND DESCRIBED IN DEED RECORDED IN BOOK 15466 PAGE 274, OFFICIAL RECORDS; THENCE SOUTH 88 DEGREES 53' 40" WEST ALONG THE NORTH LINE OF SAID LOT 2, 165 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88 DEGREES 53' 40" WEST ALONG THE NORTH LINE OF SAID LOT 2, 165 FEET; THENCE SOUTH 1 DEGREES 06' 20" EAST, 269.66 FEET; THENCE NORTH 88 DEGREES 53' 40" EAST 165 FEET; THENCE NORTH 1 DEGREES 06' 20" WEST, 269.66 FEET TO THE TRUE POINT OF BEGINNING.

10/16/2014 10:32:15 AM

1 PROOF OF SERVICE [CCP §1013a]

2 STATE OF CALIFORNIA, COUNTY OF ORANGE

3 I am employed in the County of Orange, State of California. I am over the age of
4 eighteen years and not a party to the within entitled action; my business address is 500 North
State College Boulevard, Suite 1200, Orange, California 92868.

5 On December 3, 2012, I caused to be served the foregoing document described as
6 **PLAINTIFFS' THIRD AMENDED COMPLAINT FOR 1. BREACH OF CONTRACT;**
7 **2. FRAUD; 3. INTENTIONAL MISREPRESENTATION; 4. NEGLIGENT**
8 **MISREPRESENTATION.** on the interested parties as follows:

9 SEE ATTACHED SERVICE LIST

- 10 [x] **BY MAIL [CCP §1013(a)]** By placing ☐ the original ☒ a true copy thereof enclosed in a
11 sealed envelope(s) addressed as to the above-named counsel of record or parties in propria
12 persona. I caused such envelope postage thereon fully prepaid to be placed in the United
13 States mail at Orange, California. I am readily familiar with the firm's practice of collection
14 and processing correspondence for mailing. Under that practice it would be deposited with
15 U.S. postal service on that same day with postage thereon fully prepaid at Orange, California
16 in the ordinary course of business. I am aware that on motion of the party served, service is
17 presumed invalid if postal cancellation date or postage meter date is more than one day after
18 date of deposit for mailing in affidavit.
- 19 ☐ **BY PERSONAL DELIVERY [CCP §1011(a)]** By placing ☐ the original ☐ a true copy
20 thereof enclosed in a sealed envelope(s) addressed as to the above-named counsel of record or
21 parties in propria persona. I caused such envelope to be delivered to the office of the
22 addressee.
- 23 ☐ **BY OVERNIGHT DELIVERY [CCP §1013(a)]** By placing ☐ the original ☐ a true
24 copy thereof enclosed in a sealed envelope(s) addressed as to the above-named counsel of
25 record or parties in propria persona. I caused such envelope to be deposited in the Federal
26 Express box at 500 North State College Boulevard, Orange, California, which is regularly
27 maintained by Federal Express, with delivery fees pre-paid and provided for, addressed to the
28 person on whom said document is to be served.
- ☐ **BY FACSIMILE TRANSMISSION OR EMAIL [CCP §§1013(e) 1010.6(a)(6)]**
Based upon an agreement of the parties to accept service by facsimile transmission or
email, I caused said document, along with an unsigned copy of this Declaration to be
transmitted to a facsimile machine telephone number or email address as last given by
said counsel or party in propria persona as noted above. No error was reported by the
fax machine or email program and a true and correct copy of the transmission sheet or
email confirmation is attached to the original of this Proof of Service.

I declare under penalty of perjury under the laws of the State of California that the
forgoing is true and correct.

Dated: December 3, 2012


PATTI MARTINEZ

Service List - Page 1

Re: Weiland v. GMAC et al.
Case No.: GC048550
File No.: 5005 (formerly 3971)

David M. Liu, Esq.
SEVERSON & WERSON, P.C.
19100 Von Karman Avenue, Suite 700
Irvine CA 92612
T: (949) 442-7110 F: (949) 442-7118
E: dml@severson.com

Attorneys for Defendants
GMAC MORTGAGE, LLC; EXECUTIVE
TRUSTEE SERVICES, LLC, d/b/a ETS
Services LLC, and MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.

John B. Sullivan, Esq.
SEVERSON & WERSON, P.C.
One Professional Corporation, One
Embarcadero Center, Suite 2600
San Francisco CA 94111
T: (415) 398-3344 F: (415) 956-0439
E: jbs@severson.com

Attorneys for Defendants
GMAC MORTGAGE, LLC; EXECUTIVE
TRUSTEE SERVICES, LLC, d/b/a ETS
Services LLC, and MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.

Erica Yen, Esq.
REED & SMITH, LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071
T: (213) 457-8000 F: (213) 457-8080
E: eyen@reedsmith.com

Attorney for Defendant
MORTGAGEIT, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that on October 16, 2014, a copy of the OPPOSITION TO THE RESCAP BORROWER CLAIMS TRUST'S SEVENTY-FIFTH OMNIBUS OBJECTION TO CLAIMS (NO LIABILITY BORROWER CLAIMS) was served upon the following parties either electronically or by first class postage prepaid, or by Messenger, as specified:

By FEDERAL EXPRESS

Chambers of the Honorable Martin Glenn
United States Bankruptcy Court
For the Southern District of New York
Alexander Hamilton Custom House
One Bowling Green
New York, New York 10004-1408

By Electronic Service

Counsel to the ResCap Borrower Claims Trust
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104
Attn: Norman S. Rosenbaum, Jordan A. Wishnew, and Jessica J. Arett
Email: Nrosenbaum@mofo.com; Jwishnew@mofo.com; Jarett@mofo.com

Office of the United States Trustee for the Southern District of New York
Office of the United States Trustee
U.S. Federal Office Building
Attn: Linda A. Riffkin and Brian S. Masumoto
201 Varick Street, Suite 1006
New York, NY 10014
Email: Brian.Masumoto@usdoj.gov; Linda.Riffkin@usdoj.gov

///

///

///

///

The ResCap Borrower Claims Trust
Polsinelli, PC

Attn: Daniel J. Flanigan
900 Third Avenue, 21st Floor
New York, NY 10022
Email: dflanigan@polsinelli.com

The ResCap Liquidating Trust
Quest Turnaround Advisors

Attn: Jeffrey Brodsky
800 Westchester Avenue, Suite S-520
Rye Brook, NY 10573
Email: jbrodsky@qtadvisors.com

/s/ Patti Martinez
Legal Secretary
Mark A. Nialis
NIALIS LAW GROUP, APLC
500 N. State College Blvd., Ste. 1200
Orange, CA 92868
Tel: (714) 634-8001
Fax: (714) 634-3869
Email: Mnialis@NialisLaw.com

From: (714) 634-8001
Patti Martinez
NIALIS LAW GROUP
500 NORTH STATE COLLEGE BOULEVARD
SUITE 1200
ORANGE, CA 92868

Origin ID: APVA



J142214092303uv

Ship Date: 16OCT14
Act/Wgt: 2.0 LB
CAD: 9055413/INET3550

Delivery Address Bar Code



SHIP TO: (212) 284-4551

BILL SENDER

Hon. Martin Glenn
US Bankruptcy court - SDNY
1 Bowling Green
Room 501
New York, NY 10004

Ref # File Number: 5005
Invoice #
PO #
Dept #

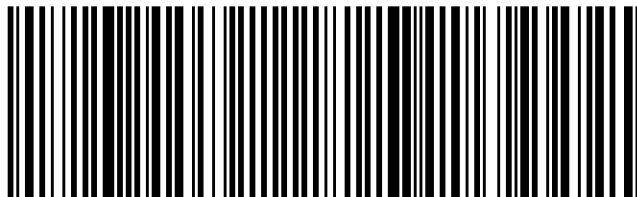
FRI - 17 OCT AA
STANDARD OVERNIGHT

TRK# 7715 2668 4542

0201

10004
NY-US
EWR

XA SXYA



522G1/DF64/8AC9

After printing this label:

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.